

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification) Docket No.
of the San Joaquin Valley Energy) 01-AFC-22
Center Project in Fresno County)
(SJVEC))
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM B
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

TUESDAY, FEBRUARY 18, 2003

10:08 a.m.

Reported by:
Valorie Phillips
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

John L. Geesman, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Major Williams, Jr., Hearing Officer

STAFF AND CONSULTANTS PRESENT

Paul Kramer, Legal Counsel

Mathew Trask, Siting Project Manager

Lance Shaw, Compliance Project Manager

Obed Odoemelam

John Kessler

Alvin Greenberg

PUBLIC ADVISER

Grace Bos

APPLICANT

Jeffrey D. Harris, Attorney

Greggory L. Wheatland, Attorney

Ellison, Schneider and Harris, LLP

Michael A. Argentine, Manager, Project Development

Ali Amirali, P.E., Director, Transmission

Engineering and Contracts

Calpine Corporation

John L. Carrier

CH2MHILL

EJ Koford, Senior Biologist/Project Manager

CH2MHILL

INTERVENORS

Keith Freitas

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P R O C E E D I N G S

10:08 a.m.

HEARING OFFICER WILLIAMS: This is a Committee evidentiary hearing by a Committee of the California Energy Commission on the proposed San Joaquin Valley Energy Center; CEC docket number 01-AFC-22.

Art Rosenfeld, the Presiding Member, is not present. Commissioner Geesman, our Associate Member is present. I am the Hearing Officer, Major Williams, Jr.

The Commission's Public Adviser's Office, represented by Grace Bos, is present. If anyone has any questions today about the process and the purpose of our evidentiary hearing, Grace is the person that you want to talk to. Grace, would you come up and introduce yourself.

Okay, Mr. Freitas.

MR. FREITAS: Yeah, am I the only one on the conference call, Mr. Williams?

HEARING OFFICER WILLIAMS: I believe so.

MR. FREITAS: Okay, like the Long Ranger, okay. All right. I can hear you just fine.

HEARING OFFICER WILLIAMS: Okay, good.

1 Grace.

2 MS. BOS: Yes, thank you, Major
3 Williams, Commissioner Geesman. I am Grace Bos;
4 I'm the Associate Public Adviser for the
5 Commission. Roberta is at another case today.

6 Would you like to hear the outreach that
7 we've done at this point?

8 HEARING OFFICER WILLIAMS: Yes. I take
9 it you will not be there tomorrow?

10 MS. BOS: Well, I was going to be, but
11 it sounds like Mr. Freitas is the only participant
12 at this point, so in order to save the state some
13 money we decided to stay home.

14 HEARING OFFICER WILLIAMS: Okay.

15 MS. BOS: What we have done is we've
16 done the usual. We've taken the AFC to the
17 various libraries. And distributed posters. We
18 have also contacted the Golden Plains Unified
19 School District and we sent flyers to the Unified
20 School District. We did Spanish and English
21 newspaper inserts. We sent 6700 copies of inserts
22 to The Fresno Bee. And all the "Bee" subscribers
23 in the communities of San Joaquin, Mendota,
24 Firebaugh and Kerman.

25 And then the notices of the hearings

1 were mailed to the general public and property
2 owners, as usual.

3 And if you have any questions please let
4 me know. The only person that has been very
5 actively participating has been Mr. Keith Freitas,
6 as an intervenor. Other than that we have not had
7 a lot of public interest in it.

8 HEARING OFFICER WILLIAMS: Thank you
9 very much, Grace.

10 MS. BOS: Thank you, Major.

11 HEARING OFFICER WILLIAMS: Yes, Mr.
12 Freitas?

13 MR. FREITAS: Mr. Williams, I didn't
14 hear a word she said. Could you just synopsis it
15 for me?

16 HEARING OFFICER WILLIAMS: Yeah. Grace
17 is a representative -- well, she's the Associate
18 Public Adviser. She works with Ms. Mendonca. And
19 she talked about the outreach efforts made in the
20 San Joaquin area with respect to notice of the
21 project.

22 And she indicated that essentially you
23 were the primary interested party who's been
24 active in the case down in the San Joaquin area.
25 And that's essentially what she said.

1 She will not be there tomorrow so she
2 summarized the Public Adviser's efforts for us
3 today.

4 MR. FREITAS: That doesn't have any
5 relationship to any public comment?

6 HEARING OFFICER WILLIAMS: No, no. It's
7 just an introduction of the role of the Public
8 Adviser.

9 MR. FREITAS: Okay, thank you very much.

10 HEARING OFFICER WILLIAMS: Sure. Okay,
11 if we could have the parties introduce themselves
12 at this point; let's start with the applicant.

13 MR. HARRIS: Good morning, I'm Jeff
14 Harris with Ellison, Schneider and Harris; here on
15 behalf of the applicant.

16 MR. WHEATLAND: And I'm Gregg Wheatland,
17 also an attorney for the applicant.

18 MR. ARGENTINE: I'm Mike Argentine,
19 Project Manager for the applicant.

20 MR. CARRIER: I'm John Carrier, Project
21 Manager with CH2MHILL, environmental consultant to
22 the applicant.

23 HEARING OFFICER WILLIAMS: Thank you.
24 Staff.

25 MR. KRAMER: I'm Paul Kramer, the Staff

1 Counsel for this case.

2 MR. TRASK: Matt Trask, Siting Division
3 Project Manager.

4 MR. SHAW: Lance Shaw, Compliance
5 Project Manager.

6 HEARING OFFICER WILLIAMS: Okay, and we
7 have Mr. Freitas on the phone.

8 MR. FREITAS: Yes, this is Keith
9 Freitas, Intervenor. If everybody talks like Mr.
10 Kramer I'd have a clear, crisp soundtrack there.

11 HEARING OFFICER WILLIAMS: Okay.

12 MR. KRAMER: I can revive my radio
13 career then.

14 (Laughter.)

15 HEARING OFFICER WILLIAMS: Again,
16 everyone is going to have to speak up so Mr.
17 Freitas can hear what's going on.

18 HEARING OFFICER WILLIAMS: Do we have
19 any members of the public here today? I assume
20 then that the several people that I see in the
21 back are with the --

22 MR. KOFORD: We can avoid the mystery.
23 I'm EJ Koford, here on behalf of the applicant,
24 from CH2MHILL, here to testify on water quality if
25 we get there.

1 HEARING OFFICER WILLIAMS: Okay, that's
2 great.

3 MR. AMIRALI: My name is Ali Amirali;
4 I'm the Director of Transmission with Calpine, for
5 the applicant.

6 HEARING OFFICER WILLIAMS: Okay. Before
7 we move on to the matter of testimony we're going
8 to take up some housekeeping matters at this time.

9 The first thing that we would note, the
10 Committee will resume scheduled evidentiary
11 hearings tomorrow in San Joaquin at the GURU
12 Assembly Hall beginning at 10:00. Thereafter, as
13 necessary, we will resume hearings on Thursday in
14 this room at 1:00 p.m.

15 MR. KRAMER: Question. My understanding
16 was noise would for sure be here on Thursday,
17 correct?

18 MR. HARRIS: That's mine.

19 MR. KRAMER: Because we're not bringing
20 any noise people to San Joaquin tomorrow. Right?

21 HEARING OFFICER WILLIAMS: That's
22 correct.

23 MR. KRAMER: Okay.

24 HEARING OFFICER WILLIAMS: That's
25 correct.

1 MR. HARRIS: That's our understanding,
2 too. We've got a large panel and they will be
3 here on Thursday.

4 MR. KRAMER: All right.

5 MR. FREITAS: So, Mr. Williams, the
6 noise won't be part of the subject matter under
7 discussion, or topics at the San Joaquin hearing?

8 HEARING OFFICER WILLIAMS: That's right.
9 Tomorrow at the San Joaquin hearings what we have
10 scheduled are the air quality and public health
11 issues.

12 MR. FREITAS: Soil and water?

13 HEARING OFFICER WILLIAMS: Well, we
14 would like to do soil and water today if at all
15 possible.

16 MR. FREITAS: Okay.

17 HEARING OFFICER WILLIAMS: And visual
18 testimony tomorrow, as well.

19 MR. FREITAS: Okay.

20 HEARING OFFICER WILLIAMS: Okay?

21 MR. FREITAS: Okay.

22 HEARING OFFICER WILLIAMS: Okay, so that
23 is the outline of our schedule for the next few
24 days. In that vein we would like to try to finish
25 up today by 3:30 at the latest, to allow folks to

1 get down to San Joaquin safely. So we should keep
2 that time in mind as we progress. As we get close
3 to 3:30 we're going to think about adjourning for
4 the day and picking up tomorrow in San Joaquin.

5 And no matter where we are today we're
6 going to cover those topics that I indicated
7 tomorrow in San Joaquin. And if we need to pick
8 up with some issues that were dropped today then
9 we'll pick those up on Thursday, or perhaps
10 Friday.

11 Earlier I passed out a tentative exhibit
12 list. It's just rough at this point. I would ask
13 the parties to work with me on that to make sure
14 that we get everything numbered appropriately, and
15 that we don't lose any exhibits along the way.
16 So that will be a continuing effort.

17 You'll get a copy of it tomorrow, Mr.
18 Freitas, and I'll try to have it updated for you.

19 MR. FREITAS: Okay, thank you, Mr.
20 Williams. Did you pronounce my name Freitas?

21 HEARING OFFICER WILLIAMS: Freitas.

22 MR. FREITAS: Yeah, that's fine.

23 HEARING OFFICER WILLIAMS: Thank you.

24 MR. FREITAS: You're welcome.

25 HEARING OFFICER WILLIAMS: Are there any

1 other housekeeping matters that the parties would
2 like to address at this point?

3 Okay, seeing none --

4 MR. KRAMER: We'd understood that soil
5 and water would be discussed tomorrow due to Mr.
6 Freitas' concerns. But if we can pick a time
7 today, I think we need to check and see if our
8 folks can be available, at least by telephone,
9 today. We're willing to try to make that happen,
10 but --

11 HEARING OFFICER WILLIAMS: Okay.

12 MR. KRAMER: -- I think it would be
13 helpful if, for instance, it was right after lunch
14 or something like that.

15 HEARING OFFICER WILLIAMS: Okay, sure,
16 we'll try to accommodate you in whatever way you
17 need to on that.

18 MR. FREITAS: I was kind of prepared for
19 tomorrow. I was planning for tomorrow for soil
20 and water, but that's okay, if we can -- I may
21 have to take a break. Are we going to take a
22 lunch break, Mr. Williams?

23 HEARING OFFICER WILLIAMS: Yeah, we're
24 going to take a lunch break. We'll see how we
25 progress. And then we'll take a lunch break at

1 some point.

2 MR. FREITAS: Okay.

3 HEARING OFFICER WILLIAMS: Okay.

4 Presentations by the parties. Evidentiary
5 hearings are formal in nature, similar to court
6 proceedings. The purpose of the hearing is to
7 receive evidence, including testimony, and to
8 establish the factual record necessary to reach a
9 decision in this case.

10 Applicant has the burden of presenting
11 sufficient substantial evidence to support the
12 findings and conclusions required for
13 certification of the proposed facility.

14 The order of testimony will be taken as
15 follows for each topic. Applicant, staff,
16 tomorrow, of course, we'll have both the San
17 Joaquin Valley Air Quality Control District and
18 the EPA, as well. And then, of course, intervenor
19 Freitas.

20 Did I pronounce it?

21 MR. FREITAS: Yes, Freitas, yes,
22 Freitas.

23 HEARING OFFICER WILLIAMS: Freitas,
24 okay.

25 MR. FREITAS: Thank you.

1 HEARING OFFICER WILLIAMS: Witnesses
2 will testify under oath or affirmation. During
3 the hearing the party sponsoring a witness shall
4 establish the witness' qualifications and ask the
5 witness to summarize the prepared testimony.
6 Relevant exhibits should be offered into evidence
7 at that time.

8 At the conclusion of a witness' direct
9 testimony the sponsoring party should move in all
10 relevant exhibits to be received into evidence.

11 The Committee will next provide the
12 other parties an opportunity for cross-examination
13 followed by redirect and recross-examination as
14 appropriate. Multiple witnesses may testify as a
15 panel. The Committee also may question the
16 witnesses.

17 Upon conclusion of each topic we will
18 invite members of the public to offer unsworn
19 public comment. Public comment is not testimony
20 and a Committee finding cannot be based solely on
21 such comments. However, public comment may be
22 used to explain evidence in the record.

23 The Committee understands that many
24 topics may be subject to stipulated testimony. It
25 is the Committee's preference that the stipulated

1 topics be presented first today. These topics
2 include project description, alternatives,
3 compliance and closure, facility design, power
4 plant efficiency, power plant reliability,
5 transmission system engineering, transmission line
6 safety and nuisance, hazardous materials
7 management, worker safety and fire protection,
8 cultural resources, geology and paleontology, land
9 use, socioeconomics, traffic and transportation.

10 Having reviewed the prefiled testimony,
11 and as to the stipulated testimony, are the
12 parties prepared to stipulate that there are no
13 disputed issues?

14 MR. HARRIS: Yes.

15 HEARING OFFICER WILLIAMS: Do the
16 parties expressly waive cross-examination on the
17 stipulated topics?

18 MR. KRAMER: Yes.

19 MR. HARRIS: Yes, we do.

20 HEARING OFFICER WILLIAMS: Mr. Freitas?

21 MR. FREITAS: Yes.

22 HEARING OFFICER WILLIAMS: Do all
23 parties expressly agree that we may proceed on
24 these stipulated topics by way of sworn, written
25 declaration?

1 MR. HARRIS: Yes, we do.

2 MR. FREITAS: Yes.

3 MR. KRAMER: Yes.

4 HEARING OFFICER WILLIAMS: Okay, then
5 let us begin with the uncontested topics, and
6 applicant's presentation on the topic of project
7 description.

8 MR. HARRIS: Thank you. Our prefiled
9 testimony on project description is on page 47.
10 Our witness is Mr. Michael Argentine. Section D
11 of his prefiled testimony lists three bulleted
12 items and we should go through those and assign
13 those exhibit numbers, if we could, please.

14 The first bullet is sections 1, 2, 3, 4
15 and 6 of the AFC. Those are parts of exhibit 1,
16 so they don't need a separate number.

17 The second bullet is data adequacy
18 supplement to the AFC. I'd ask that that be
19 assigned a number.

20 HEARING OFFICER WILLIAMS: Do you want
21 to put that under project description?

22 MR. HARRIS: Yes.

23 HEARING OFFICER WILLIAMS: Okay, that
24 will be -- we'll make it 3.1.

25 MR. HARRIS: Okay, 3.1, thank you. The

1 next item would be the informal data response
2 numbers, I think that's supposed to be 1 through
3 5.

4 MR. ARGENTINE: No, it's I-5.

5 MR. HARRIS: Oh, I'm sorry, it is I-5,
6 aqueous ammonia analysis. I'd ask that that be
7 given a number.

8 HEARING OFFICER WILLIAMS: 3.2.

9 MR. HARRIS: Okay. Those are the
10 documents associated with this section. The
11 prefiled testimony is before you. I'd ask that it
12 be accepted by declaration.

13 HEARING OFFICER WILLIAMS: So admitted.
14 Mr. Harris, I'm going to ask you, since I see more
15 computers on your side than anywhere else, to
16 provide the Committee a revised tentative exhibit
17 list based upon the documents that are admitted
18 today. And have that available for us tomorrow.
19 Is that too much to ask?

20 MR. HARRIS: We can do that.

21 HEARING OFFICER WILLIAMS: Okay. And,
22 Mr. Freitas, we'll make sure that you have that
23 available to you tomorrow. We will be
24 distributing that revised tentative exhibit list
25 based upon the documents that are admitted today.

1 MR. FREITAS: Are you going to allow
2 mine in that I submitted? Did you guys get those
3 documents?

4 HEARING OFFICER WILLIAMS: We got some.
5 But we're going to assign your exhibits, let's
6 see, next in order I think would be 5. So, Mr.
7 Freitas' exhibits will all come under exhibit 5,
8 5A, 5B and so forth.

9 And, Mr. Freitas, at some point when you
10 have an exhibit to offer under the appropriate
11 topic, just let us know.

12 MR. FREITAS: Okay.

13 HEARING OFFICER WILLIAMS: Okay?

14 MR. FREITAS: I'm going to have a hard
15 time until after, unless I testify after the
16 break, because I don't know how to match up your
17 documents to the ones that you're going to match
18 up and label, to the ones that I have. We didn't
19 have a chance to get that labeled.

20 I guess there was a fax communication
21 problem on Friday. And even though I have a
22 confirmed fax, a confirmation fax showing that all
23 my documents were faxed through, the Public
24 Adviser's Office apparently didn't get all the
25 documents.

1 HEARING OFFICER WILLIAMS: Well, okay,
2 we'll do our best. And to the extent that we
3 don't get it sorted out today we'll sort it out
4 tomorrow.

5 MR. FREITAS: Yeah, that's not a
6 problem.

7 HEARING OFFICER WILLIAMS: Okay, thank
8 you.

9 MR. FREITAS: Thank you.

10 HEARING OFFICER WILLIAMS: Okay. So
11 then is that it for project description?

12 MR. HARRIS: Yes.

13 HEARING OFFICER WILLIAMS: Okay. The
14 Committee has accepted the exhibits offered by
15 applicant without objection. And we're prepared
16 to move on to the topic of alternatives.

17 MR. HARRIS: Thank you, Mr. Williams.
18 In alternatives our prefiled testimony was made by
19 Mr. EJ Koford, K-o-f-o-r-d, and John Carrier, J.D.

20 The documents that are listed under
21 section 1D, prior filings include sections of the
22 AFC, which do not require separate numbers,
23 section 9, section 6, section 7 and subsection
24 7.14.

25 A separate document listed there, the

1 fourth bullet, is data responses set 1A, numbers
2 29, 30, 31, 32 and 33. I'd ask that those be
3 assigned a number.

4 HEARING OFFICER WILLIAMS: Okay, they
5 will be assigned in sequence 3A.1.

6 MR. HARRIS: And the next document,
7 staff assessment comments, set 1, 3A.2, I guess?

8 HEARING OFFICER WILLIAMS: Yes.

9 MR. HARRIS: Those are the documents, as
10 described, and I'd ask that the testimony be
11 accepted by declaration.

12 HEARING OFFICER WILLIAMS: Okay. Those
13 documents are admitted without objection.

14 We can move on to the topic of
15 compliance and closure. Mr. Freitas, did you have
16 some documents or questions in the area of
17 compliance and closure? Mr. Freitas?

18 MR. FREITAS: Yes, I'm reviewing my
19 documents. Just a second, please.

20 HEARING OFFICER WILLIAMS: Okay.

21 MR. FREITAS: No, not at this point.

22 HEARING OFFICER WILLIAMS: Okay. Then,
23 applicant.

24 MR. HARRIS: Yeah, our prefiled
25 testimony was sponsored by Mike Argentine. The

1 prior filing in this particular topic are section
2 4 of the AFC, so they do not require a unique
3 number.

4 I wanted to flag one issue for the
5 Committee, although I don't think it requires
6 further discussion. We provided some comments on
7 condition COM-8 related to security plans for the
8 facility. We have no objection to the security
9 plan, and the issue that arose in our comments,
10 the condition as written, requires background
11 checks.

12 And we think that that background check
13 process potentially implicates some civil liberty
14 issues, and we were concerned about that. We do
15 think, though, this is a broader issue for the
16 entire Commission, and one that ought to be
17 applied uniformly across of the projects.

18 And so we don't have a proposed solution
19 to that issue. We wanted to flag it for the
20 Hearing Officer and for the Commissioner. And let
21 you know that we think that ought to be worked out
22 at a Commission-wide level. And we would
23 certainly accept whatever that resolution is the
24 Committee proposes.

25 HEARING OFFICER WILLIAMS: Staff, do you

1 have any comment to that?

2 MR. KRAMER: What we were looking for
3 there is criminal background checks. I mean we
4 can clarify our intent to that extent.

5 MR. HARRIS: That does help. But,
6 again, I think it would be good to have a
7 Commission-wide understanding of exactly what
8 we're looking for.

9 I don't know, for example, what we would
10 do if we found something in a background. It's
11 really a larger issue, it's larger than this
12 project. I appreciate the clarification. It's
13 one that does have some civil liberty implications
14 and we need to work with the staff.

15 I don't anticipate any problem here.
16 I'm really just flagging the issue. Work with the
17 staff and the compliance staff to figure out how
18 to phrase the condition that will accomplish the
19 objectives and be clear enough that we can enforce
20 it on our end, or comply within our end.

21 MR. KRAMER: You say phrase a condition,
22 but I mean this would be the condition. So I
23 think you're talking actually about language in
24 the plan to describe how it's going to work,
25 right?

1 MR. HARRIS: Correct. I think, you
2 know, if you want to clarify that it's background
3 checks, criminal background checks, we're still
4 going to need some guidance from the Commission as
5 to what we do if we find something.

6 MR. KRAMER: But that would come during
7 the compliance process and reviewing the plan,
8 presumably.

9 MR. HARRIS: Yeah, either that or in a
10 separate process that the Commission initiates
11 that applies to all projects. I don't think this
12 is a big issue, I just want to make sure we flag
13 the issue for everybody's concern, and realize it
14 is a Commission-wide concern, and not just a
15 project-specific concern.

16 HEARING OFFICER WILLIAMS: Okay, so
17 noted.

18 MR. FREITAS: Mr. Williams, may I make a
19 comment on that?

20 HEARING OFFICER WILLIAMS: Go right
21 ahead.

22 MR. FREITAS: I have to apologize to
23 everyone, I'm having a real hard time, I'm
24 straining to hear. But I think what I'd just like
25 to add to that is that I think it's not a

1 prescribed issue that's been dictated by staff to
2 meet those compliance contingents. I think that
3 it's a prescribed issue that's being dictated by
4 the after-911 environment that we live in now.

5 And I think that it's appropriate for
6 staff to keep those contingencies in there under
7 compliance. And I think it's an appropriate
8 request.

9 It's the world we live in now.

10 HEARING OFFICER WILLIAMS: Yeah.

11 MR. FREITAS: If I understood his
12 comments correctly. Maybe I misunderstood his
13 comments.

14 HEARING OFFICER WILLIAMS: No, I think
15 you understood them very well. And, again, as I
16 understand it, the applicant is suggesting that
17 not that the language be stricken or anything like
18 that. The applicant is suggesting that perhaps
19 more guidance be provided so that the conditions
20 requirements are better understood.

21 And what staff has offered is that
22 generally that process takes place after the
23 application has been approved by our compliance
24 section. And applicant's response is that yes,
25 but it would still be helpful to have some

1 Commission protocol, if you will, on the topic, on
2 the security topic, so that the application of the
3 condition is uniformly applied.

4 So, you know, there's no suggestion that
5 the language that's in there be taken out or
6 anything like that.

7 MR. FREITAS: Okay, I just had a hard
8 time hearing him in total. So I wasn't sure. I
9 just wanted to --

10 HEARING OFFICER WILLIAMS: Okay.

11 MR. FREITAS: -- make that comment.
12 Thank you for explaining that.

13 HEARING OFFICER WILLIAMS: Sure. Sure.
14 Applicant.

15 MR. HARRIS: Okay, next topic?

16 HEARING OFFICER WILLIAMS: Yes, so those
17 exhibits will be admitted without objection. And
18 the comments are so noted, as well.

19 So, with that we can move on to facility
20 design.

21 MR. HARRIS: Procedural question. We
22 haven't moved any of the staff's documents, or
23 sections of the AFC. Are we going to do that
24 separately at the end or do those concurrently
25 with ours?

1 HEARING OFFICER WILLIAMS: Well, why
2 don't we do them concurrently. Staff's --

3 MR. WHEATLAND: Previously we've taken
4 both the applicant's and the staff's testimony --

5 HEARING OFFICER WILLIAMS: Right.

6 MR. WHEATLAND: -- in each subject area
7 and then closed that subject area. The
8 presentation of the record looks a little bit
9 cleaner that way in the transcript.

10 HEARING OFFICER WILLIAMS: Okay. Then
11 if we were to back up, we've got staff's exhibit 2
12 is the staff assessment that was filed on July 16.
13 And the addendum filed on December 24th of 2002.

14 The tentative exhibit list shows that
15 the staff assessment, the addendum would be
16 admitted during the course of our evidentiary
17 hearings, but I think the point is well taken that
18 as we go along we should also admit the relevant
19 sections of the staff assessment.

20 So, if we were to back up to project
21 description, staff, are you prepared to offer the
22 project description section of the staff
23 assessment?

24 MR. KRAMER: Yes, we would move the
25 project description of the staff assessment, and I

1 don't have the addendum right in front of me at
2 the moment, but -- I can't recall if it added
3 anything to that. But, if it did, the addendum,
4 as well.

5 MR. TRASK: I don't believe it did.

6 MR. KRAMER: Into evidence.

7 HEARING OFFICER WILLIAMS: Okay, we'll
8 move in the project description sections of the
9 staff assessment and the addendum without
10 objection.

11 Alternatives.

12 MR. KRAMER: We'd move the staff
13 assessment into evidence again; there was nothing
14 in the addendum.

15 HEARING OFFICER WILLIAMS: Okay, the
16 relevant sections of the staff assessment and
17 addendum relative to alternatives is admitted
18 without objection.

19 Compliance and closure.

20 MR. KRAMER: We would move the -- let's
21 see, compliance, that's really our general
22 conditions.

23 MR. TRASK: And it would only be
24 addendum.

25 MR. KRAMER: Are you sure? That's

1 true -- well, no, there are general conditions
2 both in the staff assessment and in the addendum.

3 MR. TRASK: We reprinted the whole
4 section in the addendum.

5 MR. KRAMER: Okay, so in that case we
6 would just move in the general conditions
7 including compliance and monitoring plan from the
8 addendum.

9 HEARING OFFICER WILLIAMS: Okay. Then
10 that will be admitted without --

11 MR. FREITAS: Major?

12 HEARING OFFICER WILLIAMS: Yes.

13 MR. FREITAS: Can I insert something
14 here, please?

15 HEARING OFFICER WILLIAMS: Go right
16 ahead.

17 MR. FREITAS: I'd like to clarify that I
18 just received the staff's report or response to
19 the February 4 changes that were submitted by
20 applicant last night in the mail. And I had a
21 chance to quickly browse over that.

22 But am I understanding correctly when
23 you -- I thought that there were remaining issues
24 under compliance that were some issues that were
25 necessary to -- some back-and-forth stuff that was

1 requested from staff from applicant. In that
2 response. Am I wrong?

3 MR. TRASK: Not in the general
4 conditions.

5 HEARING OFFICER WILLIAMS: Yeah, not in
6 the general conditions.

7 MR. FREITAS: Okay, I'm sorry.

8 HEARING OFFICER WILLIAMS: Okay.

9 MR. KRAMER: I can see where he might be
10 confused because some of the facility design
11 conditions are labeled GEN-1, 2, 3 and 4.

12 HEARING OFFICER WILLIAMS: Yes.

13 MR. KRAMER: Maybe that's --

14 HEARING OFFICER WILLIAMS: Yes.

15 MR. FREITAS: Yeah, yeah.

16 HEARING OFFICER WILLIAMS: Okay. So
17 staff's compliance and closure section of the
18 staff assessment are admitted.
19 Okay, we'll move now to facility design.
20 Applicant.

21 MR. HARRIS: Okay, just to make things
22 complicated, we have facility design, power plant
23 efficiency and reliability all on the same page,
24 page 15 of our prefiled testimony.

25 It lists the prior filings, which,

1 again, are mostly sections of the AFC, sections 6,
2 7 and 10, as well as appendices 10A through 10G to
3 the AFC. Those don't require unique numbers.

4 The last bullet, staff assessment
5 comments set 1, already numbered 3A.2. So no new
6 numbers are required there. Thank you, John.

7 So we would move that testimony into the
8 record by declaration.

9 HEARING OFFICER WILLIAMS: So admitted
10 without objection.

11 Staff?

12 MR. KRAMER: Okay, we would move the
13 facility design -- I think we're doing three of
14 these here in a row -- power plant efficiency and
15 power plant reliability sections of the staff
16 assessment into evidence.

17 Along with the portion of our response
18 to the applicant's proposed changes dated February
19 11, but docketed on February 13, at page 7, which
20 includes the response regarding facility design
21 condition GEN-2 into evidence.

22 Did I say page 7 of our filing?

23 MR. TRASK: Yes.

24 HEARING OFFICER WILLIAMS: Did you want
25 to give that a separate number?

1 MR. KRAMER: Well, I guess we should.

2 And I don't think it's on your list right now.

3 But we'll be referring to this periodically, so --

4 HEARING OFFICER WILLIAMS: You can check
5 the list on your exhibits which are 2.

6 MR. KRAMER: It would be 2 O, as in
7 Oscar, is the next number.

8 HEARING OFFICER WILLIAMS: Okay.

9 MR. KRAMER: We'll call that the
10 February 11 response to applicant proposals.

11 And while we're annotating our list, 2
12 P, as in Paul, there was an additional response
13 that was filed on -- dated February 13 and filed
14 on the same day. So it would be February 13
15 response to applicant's proposed changes.

16 HEARING OFFICER WILLIAMS: What are
17 those pages?

18 MR. KRAMER: The number of pages?

19 HEARING OFFICER WILLIAMS: Yes.

20 MR. KRAMER: It's cover sheet and six
21 pages, so seven. The first document was -- cover
22 sheet and 27 -- no, 27 pages. I'm sorry, make the
23 first one six instead. The cover sheet was page
24 1. So, 27 for the two February 11th document, and
25 six pages for the February 13th.

1 HEARING OFFICER WILLIAMS: Are there any
2 objections to those? Okay, --

3 MR. FREITAS: Mr. Williams, is there
4 anyone there that's hooked up online?

5 HEARING OFFICER WILLIAMS: No, not that
6 I know of. Why? Do you want to look at these
7 documents?

8 MR. FREITAS: Yeah, I was kind of hoping
9 to get somebody to shoot it to me on the email
10 real quick so I can review them.

11 MR. TRASK: They are on the project
12 website, Mr. Freitas.

13 MR. FREITAS: They are?

14 MR. TRASK: Yes. Under Commission's
15 documents.

16 MR. FREITAS: Commission's documents?

17 HEARING OFFICER WILLIAMS: Why don't
18 you -- we won't admit these today, but we'll take
19 it up tomorrow, give you an opportunity to look at
20 them.

21 MR. FREITAS: I appreciate that a lot.

22 HEARING OFFICER WILLIAMS: Okay. And we
23 also have copies available tomorrow.

24 Staff, I would also ask your indulgence
25 to annotate the exhibit list, as well, so that we

1 can provide a copy to Mr. Freitas tomorrow.

2 MR. TRASK: They were served on the
3 proof of service list, so he should get them, if
4 not today, tomorrow.

5 HEARING OFFICER WILLIAMS: Okay.

6 MR. KRAMER: Wasn't he also on the email
7 list?

8 MR. TRASK: I believe I did email them
9 to you, Mr. Freitas, as well. If not, I'll get
10 them to you today.

11 MR. FREITAS: I appreciate that. Is
12 that Jeff Harris?

13 MR. TRASK: No. It's Matt Trask.

14 MR. FREITAS: Oh, Matt? Okay, thank
15 you, Matt.

16 HEARING OFFICER WILLIAMS: Then what I
17 propose to do is I will email -- I can email the
18 parties the tentative exhibit list, and then I
19 would just ask you to annotate it and email it
20 back so we can have it available in an updated
21 format, so that we don't lose anything.

22 Okay. Then we're ready to proceed to
23 transmission system engineering.

24 MR. HARRIS: Thank you, Mr. Williams.
25 Transmission system engineering, our witness was

1 Ali Amirali for Calpine. In section 1D, his prior
2 filings, the following documents are identified:
3 Section 5 of the AFC which does not require a
4 unique number. Data adequacy supplement to the
5 AFC, attachment 12-TSE-1, system impacts study
6 dated December 7, 2001. I'd ask that that be
7 assigned a number.

8 HEARING OFFICER WILLIAMS: We'll begin
9 with 3G.1.

10 MR. HARRIS: Thank you. Next document
11 is data response set 1A, number 127. Ask for a
12 number there, as well.

13 HEARING OFFICER WILLIAMS: 3G.2.

14 MR. HARRIS: Staff assessment comments
15 set 1 has already previously been identified as
16 3A.1. So it doesn't require a unique number.

17 ISO letter granting preliminary
18 interconnection approval dated December 14, 2001,
19 and confirming by email April 26, 2002. I'd ask
20 that that be given a number.

21 HEARING OFFICER WILLIAMS: 3G.3.

22 MR. HARRIS: Final facility study plan
23 issued by PG&E dated March 4, 2002. I'd ask for a
24 number there.

25 HEARING OFFICER WILLIAMS: 3G.4.

1 MR. HARRIS: The reconductoring study by
2 applicant entitled data response set 3,
3 transmission system engineering, reconductoring
4 analysis, dated August 22, 2002.

5 HEARING OFFICER WILLIAMS: 3G.5.

6 MR. HARRIS: Those are the documents
7 that make up the testimony. I'd ask that that be
8 accepted by declaration.

9 HEARING OFFICER WILLIAMS: Those will be
10 admitted without objection.

11 Staff.

12 MR. KRAMER: We would introduce into
13 evidence the transmission line safety -- I'm
14 sorry, transmission system engineering section 5.5
15 of the staff assessment. And in the addendum to
16 the staff assessment, section 4 is an appendix to
17 the transmission engineering reconductoring
18 project impact analysis.

19 HEARING OFFICER WILLIAMS: Okay, the
20 relevant provisions of the staff assessment and
21 the addendum under the subject of transmission
22 system engineering are admitted without objection.

23 We can move on to transmission line
24 safety and nuisance.

25 MR. HARRIS: Question, was there a

1 number assigned to the Cal-ISO letter? 3G.2.

2 Sorry, trying to keep our preliminary list.

3 HEARING OFFICER WILLIAMS: Right.

4 (Off-the-record discussion.)

5 HEARING OFFICER WILLIAMS: Let's go off
6 the record.

7 (Off the record.)

8 MR. HARRIS: I want to go through the
9 exhibit list again since I mis-numbered them.

10 Section 5 did not require a number.
11 Data adequacy supplement to the AFC second item
12 listed was given the number 3G.1. Data response
13 set 1A, number 127, was 3A.1. Staff assessment
14 comment set 1 is 3A.2. The ISO letter and
15 accompanying documents was 3G.2. The final
16 facility study 3G.3. And the reconductoring study
17 3G.4. Apologize for mis-numbering those.

18 HEARING OFFICER WILLIAMS: Okay. Those
19 documents will be admitted without objection.
20 Staff.

21 MR. KRAMER: We would move into evidence
22 the transmission line safety and nuisance section
23 that's 4.11 of the staff assessment. And then --

24 HEARING OFFICER WILLIAMS: I think we're
25 doing transmission system engineering.

1 MR. KRAMER: I thought we just did that
2 one.

3 HEARING OFFICER WILLIAMS: Did you do
4 that one?

5 MR. TRASK: Yes.

6 HEARING OFFICER WILLIAMS: Okay.

7 MR. KRAMER: Yeah.

8 MR. HARRIS: I had to go back to my
9 numbering.

10 MR. KRAMER: Oh, you were repeating the
11 numbering, okay. Then, didn't we already do ours?

12 HEARING OFFICER WILLIAMS: Well, do it
13 again.

14 (Laughter.)

15 MR. KRAMER: Okay. Yeah, I thought --
16 then it's transmission system engineering, section
17 5.5 of the staff assessment, along with the
18 appendix to the transmission engineering
19 reconductoring project impact analysis which is
20 chapter or section 4 of the addendum to the staff
21 assessment.

22 HEARING OFFICER WILLIAMS: Okay, those
23 will be admitted without objection, the relevant
24 portions of staff's final staff assessment and
25 supplement on transmission system engineering.

1 Okay, we'll move now to transmission
2 line safety and nuisance.

3 MR. HARRIS: Thank you, Mr. Williams.
4 Our witness is Ali Amirali. The prior filings in
5 section 1D includes only section 5 of the AFC, so
6 it does not require a unique number.

7 I would move that into evidence by
8 declaration.

9 HEARING OFFICER WILLIAMS: That will be
10 admitted without objection. Turn to staff.

11 MR. KRAMER: Transmission line safety
12 and nuisance is section 4.11 of the staff
13 assessment. There is nothing in the addendum.
14 However, in exhibit PO, as in Oscar, or 20, I'm
15 sorry, at page 25 there is a response to one of
16 the proposals for change that was made by the
17 applicant regarding transmission line safety and
18 nuisance condition 3. We would move those two
19 documents into evidence.

20 HEARING OFFICER WILLIAMS: Okay, --

21 MR. FREITAS: Mr. Williams.

22 HEARING OFFICER WILLIAMS: Yes.

23 MR. FREITAS: Excuse me, I'm sorry. I
24 got a question for staff.

25 HEARING OFFICER WILLIAMS: Okay. Go

1 right ahead.

2 MR. FREITAS: Maybe they can help
3 clarify something for me. Under that
4 determination of the EMOs and the measurements
5 that are going to be taken by Mr. Ali, if he's the
6 one that does it for applicant, I didn't see a
7 provision for what happens if the EMOs exceed
8 certain levels or something goes wrong or
9 something doesn't meet the specifications.

10 Is there a, you know, language that
11 discusses what happens if?

12 MR. KRAMER: I think I should review the
13 condition for a moment. Obviously, we don't have
14 the witness here on that area, so if necessary, we
15 can try to have him present for Mr. Freitas to ask
16 a question.

17 MR. FREITAS: Because I thought staff
18 probably would be able to have a quick answer for
19 that. I didn't see it in the response report. I
20 haven't had a chance to look at the entire
21 document.

22 MR. KRAMER: Well, I suspect he would
23 say it's implied, but, you know, that's obviously
24 not sworn testimony.

25 HEARING OFFICER WILLIAMS: Okay, well,

1 we'll try to get him down here to answer your
2 question, Mr. Freitas.

3 MR. FREITAS: Thank you.

4 HEARING OFFICER WILLIAMS: Okay.

5 HEARING OFFICER WILLIAMS: So the
6 relevant portions of the staff assessment and
7 addendum on the topic of transmission line safety
8 and nuisance are admitted, subject to witness
9 testimony and cross-examination by Mr. Freitas.

10 And we're reserving -- we're not
11 admitting either 20 or 2P today, to give Mr.
12 Freitas an opportunity to review those documents.

13 Hazardous materials management.
14 Applicant.

15 MR. HARRIS: Thank you, Mr. Williams.
16 The witness is Ms. Karen Parker. Her prior
17 filings have all actually previously been
18 numbered, but let me go through those. Section
19 8.1 and 2 of the AFC has been numbered, that's
20 item 3. Appendix 8.12 of the AFC, again is
21 exhibit 3. The third item, data adequacy
22 supplement to the AFC, is previously numbered as
23 3.1. The fourth item, informal data response set
24 I-5 is previously numbered as 3.2. And the fifth
25 item, staff assessment comment, set 1, is

1 previously identified as 3A.2.

2 I would move that testimony by
3 declaration.

4 HEARING OFFICER WILLIAMS: Okay. Those
5 documents will be admitted without -- are admitted
6 without objection.

7 Staff.

8 MR. KRAMER: Hazardous materials. We
9 would move into evidence section 4.4 of the staff
10 assessment; and section 2- -- well, the table of
11 contents listed as 2-20 of the addendum to the
12 staff assessment regarding hazardous materials.
13 Verify whether or not there was a response to
14 those. Yes. In exhibit 20, as in Oscar,
15 beginning on page 15, 1-5, through page 1-7 we
16 have several responses to the applicant's proposed
17 changes. So we'd move all three of those
18 documents into evidence.

19 HEARING OFFICER WILLIAMS: Okay. The
20 relevant portions of the staff assessment and
21 supplement on the topic of hazardous materials
22 management are admitted. And the provisions in 20
23 and 2P that relate to hazardous materials are
24 noted and we will take that up tomorrow.

25 Worker safety and fire protection.

1 MR. HARRIS: Thank you, Mr. Williams.

2 Our witness for this particular subject is
3 Patricia L. Danby. Her prior filings in section
4 1D include section 8.7 of the AFC, which does not
5 require a unique number. I would move that
6 testimony by declaration.

7 HEARING OFFICER WILLIAMS: That
8 testimony will be admitted, is admitted without
9 objection.

10 Staff.

11 MR. KRAMER: We would move into evidence
12 section 4.14, worker safety, of the staff
13 assessment. There's nothing in the addendum nor
14 on the response. So just that worker safety
15 section of the staff assessment.

16 HEARING OFFICER WILLIAMS: The relevant
17 portions of the staff assessment on the topic of
18 worker safety and fire protection are admitted
19 without objection.

20 Cultural resources.

21 MR. HARRIS: Thank you, Mr. Williams.
22 James C. Bard, Ph.D., is the applicant's witness.
23 His prior filings are set forth in 1D. To go
24 through the prior filing numbers, first one
25 section 8.3 of the AFC is previously identified as

1 number 3. Appendix 8.3 of the AFC is previously
2 identified as number 3.

3 Data adequacy supplement to the AFC is
4 previously identified as 3.1. Data adequacy --
5 excuse me, data response set 1A is previously
6 identified as 3A.1. Data response set 1B requires
7 a number. That would be 3K.1. Data response set
8 1D would be a new number, as well as 3K.2. Data
9 response set 1E, a new one, would be 3K.3. And
10 staff assessment comment set 1 is previously
11 identified as 3A.2.

12 I move those documents and our testimony
13 by declaration.

14 HEARING OFFICER WILLIAMS: Okay, those
15 documents are admitted without objection.

16 Staff.

17 MR. KRAMER: I'd like to move section
18 4.3 of the staff assessment, and 2-4 of the
19 addendum. And exhibit 20, as in Oscar, at page 6
20 there are two responses to proposed changes of
21 cultural conditions.

22 MR. FREITAS: Mr. Williams.

23 HEARING OFFICER WILLIAMS: Yes.

24 MR. FREITAS: I'd like to go on the
25 record and make a statement on this.

1 HEARING OFFICER WILLIAMS: Go right
2 ahead.

3 MR. FREITAS: Just to note to the
4 record, the cultural -- I just want to make sure
5 that the -- I don't know if this is the proper
6 time and place to do this, but that the level of
7 education in the hiring area of the plant for
8 construction during construction, and for after,
9 running the plant, is probably considered to be
10 less than standard education level wise.

11 And so, I was -- well, I just wanted to
12 make note for the record that, you know, maybe
13 some kind of a public statement or public posted
14 notice would show the minimum requirements for
15 educational level to be able to participate in any
16 of the union jobs or any of the jobs that are
17 available at the site. Available to the public.

18 HEARING OFFICER WILLIAMS: Staff?

19 MR. KRAMER: Well, cultural resources
20 isn't really about the people who are working at
21 the power plant. This is about artifacts and
22 basically have features, you know, historical
23 resources, that sort of thing.

24 So I think the question is probably more
25 properly brought up in terms of socioeconomics.

1 But, --

2 MR. FREITAS: Okay, --

3 MR. KRAMER: -- otherwise, I'm not sure
4 I fully understand the nature of this notice he's
5 asking for. The applicant, I believe, has said in
6 the past, they've described some efforts they've
7 made for outreach in the community. And I recall
8 something about seminars for local residents to
9 help them learn about what it would take to get a
10 job at the power plant, that sort of thing.

11 But, I think that's about all I can say,
12 not being an expert --

13 MR. FREITAS: That's enough. I
14 apologize. I interjected at the wrong time.

15 HEARING OFFICER WILLIAMS: Okay. So, go
16 right ahead.

17 MR. KRAMER: Go ahead and finish this,
18 and we have the witness on transmission safety is
19 available right now, if you'd like.

20 HEARING OFFICER WILLIAMS: Okay. Well,
21 then we'll admit the relevant portions of the
22 staff assessment and supplement on the topic of
23 cultural resources.

24 MR. HARRIS: Mr. Williams.

25 HEARING OFFICER WILLIAMS: Yes.

1 MR. HARRIS: It's not identified in our
2 documents, but we did have a summary of the
3 outreach program that we engaged in on behalf of
4 the applicant.

5 HEARING OFFICER WILLIAMS: Okay.

6 MR. HARRIS: Staff hasn't seen this yet,
7 and -- it's been filed, docketed and served, but
8 we didn't identify it previously. So, I'd like to
9 see if we can give it a number, let staff look at
10 it, and then move it in later.

11 HEARING OFFICER WILLIAMS: Okay. Then
12 two things. We'll reserve admitting the portions
13 of staff's exhibit O or P on cultural until
14 tomorrow. And we'll also assign applicant's
15 outreach efforts in the area of cultural resources
16 as next in order, which I believe would be 3K.4.

17 MR. KRAMER: Excuse me, would that be
18 more properly in the socioeconomic topic area?

19 MR. HARRIS: Probably, yes.

20 MR. FREITAS: Yeah, I agree with them.

21 HEARING OFFICER WILLIAMS: Okay.

22 MR. HARRIS: Okay, --

23 MR. KRAMER: So, that --

24 MR. FREITAS: I agree. I'm sorry, I
25 just got confused there with the topics.

1 HEARING OFFICER WILLIAMS: Okay, --

2 MR. KRAMER: So did Mr. Freitas withdraw
3 his objection and maybe the documents could be
4 admitted right now?

5 MR. FREITAS: Yeah, absolutely, I
6 withdraw my objection.

7 HEARING OFFICER WILLIAMS: Okay. Well,
8 the only --

9 MR. FREITAS: I don't think I made a
10 formal objection, though.

11 MR. KRAMER: I think it was interpreted
12 that way.

13 HEARING OFFICER WILLIAMS: Well, we're
14 not going to -- the staff assessment supplements
15 are admitted. We'll hold off on O and P until
16 tomorrow.

17 MR. KRAMER: Okay. Oh, I see.

18 HEARING OFFICER WILLIAMS: And we'll
19 admit those together tomorrow.

20 MR. FREITAS: Do the cultural resources
21 extend to the pipelines that bring in the gas and
22 the water?

23 MR. KRAMER: Only if they were 50 years
24 old or thereabouts. And they're not even there
25 yet, right?

1 MR. TRASK: No, I think he's -- for
2 construction, he's --

3 MR. KRAMER: Oh, or if they disturb an
4 existing cultural resource.

5 MR. HARRIS: They'll be monitoring
6 during construction to insure that we don't
7 disturb cultural resources.

8 MR. KRAMER: Right.

9 MR. TRASK: But the answer to Mr.
10 Freitas' question is yes.

11 MR. KRAMER: Themselves, they are not
12 cultural resources. Although there have been
13 times when we've talked about radio towers that
14 were old enough to be, but not here.

15 HEARING OFFICER WILLIAMS: Okay, we have
16 a witness in the room on the transmission line
17 safety and nuisance witness. If we could have him
18 sworn.

19 Whereupon,

20 OBED ODOEMELAM
21 was called as a witness herein, and after first
22 having been duly sworn, was examined and testified
23 as follows:

24 HEARING OFFICER WILLIAMS: Staff, if you
25 could just introduce your witness.

1 DIRECT EXAMINATION

2 BY MR. KRAMER:

3 Q Could you state your name for the
4 record?

5 A My name is Obed Odoemelam.

6 HEARING OFFICER WILLIAMS: You're going
7 to have to really speak up --

8 DR. ODOEMELAM: Okay.

9 HEARING OFFICER WILLIAMS: -- because
10 we've got Mr. Freitas on the conference line, and
11 he's got some questions in the area of
12 transmission line safety and nuisance. And the
13 acoustics in this room are not the best. So,
14 we're going to ask you to really speak up and
15 we'll move forward.

16 BY MR. KRAMER:

17 Q Okay, could you briefly describe your
18 qualifications as an expert in the subject area?

19 A I am the Staff Toxicologist for the
20 Energy Commission. And I deal with issues related
21 to public health and specifically the
22 electromagnetic fields and their impacts on human
23 health.

24 Q And could you describe briefly again
25 your education and training that qualifies you to

1 perform those functions?

2 A I have a doctorate degree in toxicology
3 about 22 years ago; and I have served in
4 committees that developed the risk assessment
5 guidelines that we use in assessing public health
6 within the state.

7 Q Okay, thank you.

8 MR. KRAMER: Can we just let Mr. Freitas
9 go ahead and ask his questions?

10 HEARING OFFICER WILLIAMS: Yeah, the
11 documents have already been admitted subject to
12 some questions that Mr. Freitas had on this
13 particular topic.

14 Mr. Freitas, --

15 MR. FREITAS: Yes.

16 HEARING OFFICER WILLIAMS: -- the
17 witness is --

18 MR. FREITAS: Yes. I was just
19 concerned, I was going to ask the witness -- I
20 didn't get his name. Can I get his first name?

21 DR. ODOEMELAM: My name is Obed,
22 O-b-e-d, last name is Odoemelam O-d-o-e-m-e-l-a-m.

23 MR. FREITAS: Could you repeat that, Mr.
24 Williams, I can't -- I'm having a hard time
25 hearing him.

1 HEARING OFFICER WILLIAMS: I don't know
2 if I can repeat it.

3 MR. FREITAS: Okay.

4 (Laughter.)

5 DR. ODOEMELAM: Do you want me to yell?

6 HEARING OFFICER WILLIAMS: Why don't --

7 MR. FREITAS: Okay, is Obar close
8 enough?

9 HEARING OFFICER WILLIAMS: O-b-e-d,
10 Obed. I think that --

11 DR. ODOEMELAM: Odoemelam,
12 O-d-o-e-m-e-l-a-m.

13 MR. FREITAS: M-a-n, Obed, okay, --

14 DR. ODOEMELAM: L-a-m.

15 MR. FREITAS: Okay, Obelam, okay.

16 HEARING OFFICER WILLIAMS: How about Dr.
17 O?

18 MR. FREITAS: I'll just ask the
19 question, how's that?

20 HEARING OFFICER WILLIAMS: Dr. O will
21 work.

22 CROSS-EXAMINATION

23 BY MR. FREITAS:

24 Q Are you familiar with the
25 electromagnetic fields that are generated by the

1 transactions of these types of kV lines, the
2 voltage involved?

3 A You mean for this particular project, or
4 for similar projects?

5 Q In general.

6 A Yes, I am.

7 Q You have a familiarity with that --

8 A Yes.

9 Q -- technology? In your opinion, in your
10 technical opinion or your expert opinion, what
11 types of levels will they emit at this site when
12 they transect the power plant, when they infuse
13 the power plant's power into the existing system?

14 A To the extent that the lines will be
15 designed according to specific PUC guidelines, the
16 field strength from this line will be similar to
17 the lines of the same carrying capacity and
18 voltage.

19 And these are the levels that the PUC,
20 by policy, considers appropriate for these kinds
21 of lines.

22 Q And are you familiar with the 2003
23 reliability must-run technical study of the ISO
24 controlled grid, appendix 8? Have you read that
25 study?

1 A No. Is that the study that deals with
2 the feasibility of what?

3 Q It's titled, Reliability Must-Run Study
4 Report. It's a final version on the Fresno area.

5 A No. That deals with the reliability of
6 the lines. And that is something that's dealt
7 with by a transmission line engineering group. My
8 section deals with -- my expertise is with the
9 electromagnetic fields as they're emitted, and
10 their levels, and the potential for health and
11 other environmental effects.

12 Q Okay. Well, I'm kind of ignorant on
13 this subject matter, but just real quick, and I
14 think you probably can satisfy my curiosity and my
15 concern, is that when we're entering this plant,
16 and this is from a layman's point of view or
17 perspective, so grant me a little leeway, please.

18 When we have a power plant producing
19 1100 megawatts, and I'm sure they have what they
20 would call transformers that would tone down the
21 power to enter to a 230 or 115 kV line, how do
22 you -- in other words, what I'm trying to say is
23 when the power is injected into the power lines
24 does it get injected at the same kilowatts that
25 are existing?

1 A No, well, typically the power is
2 generated at relatively low voltage. Then it's
3 transformed, that is stepped up to a higher
4 voltage, which is the transmission voltage.

5 So the electric fields or magnetic
6 fields at the point of generation would be smaller
7 than after it has been stepped up and transmitted.

8 But the important thing is that this
9 line will be designed according to specific
10 guidelines that the CPUC has specified for these
11 kinds of lines.

12 I served in 1989 in the committee that
13 the PUC appointed to advise it on the policy
14 towards electric and magnetic fields from these
15 kinds of lines. So it's something that I've been
16 familiar with for quite awhile.

17 Q Okay, so there won't be any added
18 exposure to EMOs then at the distance that the
19 point between where they intersect coming from the
20 power plant into the terminus at the Helm
21 transformer?

22 A There will be some interaction, but
23 again, the field strengths that will result are
24 the same ones that the applicant has measured for
25 us. And these are within the limits that you

1 would expect for these kinds of lines.

2 The most important thing is the design,
3 the way these lines are designed. And it is the
4 design that determines the field strength. And
5 these lines will be designed according to what the
6 PUC has specified.

7 MR. FREITAS: Thank you very much.

8 DR. ODOEMELAM: Thank you, sir.

9 MR. FREITAS: I'm done, Mr. Williams.

10 HEARING OFFICER WILLIAMS: Okay. Thank
11 you, thank you very much.

12 DR. ODOEMELAM: Thank you, sir.

13 HEARING OFFICER WILLIAMS: Thank you,
14 appreciate it.

15 Okay, we will move on now to geology and
16 paleontology.

17 MR. HARRIS: Thank you, Mr. Williams.

18 Geological hazards and resources, our witness is
19 Thomas A. Lae, that's L-a-e. His prior filings in
20 section 1D include two documents which have
21 already received numbers.

22 Section 8.15 of the AFC was previously
23 identified as exhibit number 3. Data response set
24 1A, numbers 60 and 61, were previously identified
25 as exhibit 3A-1.

1 And I would move that testimony by
2 declaration.

3 HEARING OFFICER WILLIAMS: Okay. That
4 testimony will be admitted -- is admitted as
5 exhibit 3L.

6 Staff.

7 MR. KRAMER: In the staff assessment,
8 section 5.2 relates to geology and paleontology.
9 And in the addendum to the staff assessment it's
10 entitled geology mineral resources and
11 paleontology; it's section 2-13. And in exhibit
12 20, as in Oscar, beginning on page 7, we have
13 responses to proposed changes and some staff-
14 recommended revisions to conditions based on the
15 latest model conditions. That starts on page 7
16 and runs until page 15.

17 We would introduce all three of those
18 documents into evidence.

19 HEARING OFFICER WILLIAMS: Okay. The
20 relevant portions of the staff assessment and
21 supplement are admitted on the topic of geology
22 and paleontology. And the relevant excerpts from
23 exhibits O and P will be taken up tomorrow.

24 Then next is land use.

25 MR. HARRIS: Excuse me, Mr. Williams.

1 We filed separate testimony for geology and
2 paleontology, so they're different pages in our
3 prefiled testimony.

4 Our geology testimony begins on page 25;
5 our paleontology begins on page 41. So I should
6 also have moved, as part of 3L, our geological
7 resources testimony on page 41. Our witness there
8 was Dr. Lanny L-a-n-n-y H. Fisk, F-i-s-k, Ph.D.
9 His prior filings in section 1D included section
10 8.16 of the AFC, which is exhibit 3; appendix 8.16
11 of the AFC, also exhibit 3. And staff assessment
12 comments set 1, which is previously identified as
13 3A.2.

14 I'm sorry for the confusion. We had
15 those as two separate sets of testimony. But I
16 would move that again as part of 3L.

17 HEARING OFFICER WILLIAMS: Yes, that
18 will be admitted without objection as exhibit 3L.

19 Land use.

20 MR. HARRIS: Land use. Applicant's
21 witness is Katy Carrasco, let me spell both names,
22 Katy, K-a-t-y, Carrasco is C-a-r-r-a-s-c-o. Her
23 prior filings are identified in section 1D. Those
24 are exhibits -- excuse me, section 8.4 of the AFC,
25 which is exhibit 3, previously identified; data

1 response set 1A, numbers 62, 63, 64 and 65,
2 previously identified as 3A.1; staff assessment
3 comments set 1, previously identified as 3A.2.

4 I would move that testimony by
5 declaration.

6 HEARING OFFICER WILLIAMS: Yes, that
7 testimony is admitted without objection.

8 Staff.

9 MR. KRAMER: We would move land use
10 section 4.5 of the staff assessment; and the land
11 use portion of the addendum to the staff
12 assessment, 2-21. And in exhibit 20, as in Oscar,
13 beginning on page 17 through page 18 there are two
14 responses to the applicant's proposed changes to
15 two conditions. We would move those into
16 evidence.

17 HEARING OFFICER WILLIAMS: Okay. We
18 will admit, without objection, the relevant
19 portions of the staff assessment and supplement on
20 the topic of land use. And we will reserve
21 admitting staff's exhibits 20 and P until
22 tomorrow.

23 We'll move now to the topic of
24 socioeconomics.

25 MR. HARRIS: Thank you, Mr. Williams.

1 Our witness is Fatuma Yusuf, and let me spell the
2 name. Fatuma, F-a-t-u-m-a, middle initial I, and
3 last name Yusuf, Y-u-s-u-f, Ph.D. Prior filings
4 in section 1D include the following documents.
5 Only one of them, I believe, is new.

6 Section 8.8 of the AFC, previously
7 identified as exhibit 3; appendix 8.8A of the AFC,
8 also part of exhibit 3. Data adequacy supplement
9 to the AFC, previously identified as 3.1. Data
10 response set 1A, numbers 66, 67, 68, 69, 70, 71,
11 72, 73, 74 and 75, previously identified as 3A.1.
12 Staff assessment comments, set 1, previously
13 identified as 3A.2.

14 And then the new document that we talked
15 about previously, Mr. Kramer identified this
16 properly being in socioeconomics, would be a
17 summary of Calpine's outreach program. That would
18 require a new number, 3N.1.

19 I would move the applicant's testimony
20 in this regard by declaration.

21 HEARING OFFICER WILLIAMS: Okay,
22 applicant's testimony is admitted as 3N and 3N.1
23 without objection.

24 HEARING OFFICER WILLIAMS: Staff.

25 MR. KRAMER: In the staff assessment,

1 section 4.8 deals with socioeconomic resources.

2 And in the addendum, section 2-26 likewise
3 addresses that. And then in exhibit 20, as in
4 Oscar, beginning at page 21 through page 22 there
5 is one response to a proposed change to a
6 condition.

7 We would move all three into evidence.

8 HEARING OFFICER WILLIAMS: Okay, the
9 relevant portions of the staff assessment and the
10 supplement on the topic of socioeconomics are
11 admitted without objection. We'll reserve staff's
12 20 and P until tomorrow.

13 Traffic and transportation. Applicant.

14 MR. HARRIS: We need just a moment to
15 check our exhibits.

16 (Pause.)

17 MR. HARRIS: Thank you, Mr. Williams.
18 Our witness for traffic and transportation is
19 Jeanne Acutanza; J-e-a-n-n-e is Jeanne, Acutanza
20 is A-c-u-t-a-n-z-a. Her prior filings in section
21 1D include section 8.10 of the AFC, previously
22 identified as exhibit 3. Data adequacy response
23 supplement to the AFC, previously identified as
24 3.1; data response set 1A, previously identified
25 as 3A.1; data response set 1B, previously

1 identified as 3K.1. And staff assessment
2 comments, set 1, previously identified as 3A.2.

3 I would move that testimony by
4 declaration.

5 HEARING OFFICER WILLIAMS: That
6 testimony is admitted without objection.

7 Staff.

8 MR. KRAMER: Section 4.10 of the staff
9 assessment contains the traffic and transportation
10 analysis of staff. And exhibit 20, as in Oscar,
11 beginning on page 24 through 25 we find two
12 responses to applicant's proposed changes to
13 traffic and transportation conditions.

14 So we'd move both documents into
15 evidence.

16 HEARING OFFICER WILLIAMS: Okay, then we
17 will admit the relevant portions of the staff
18 assessment and supplement on the topic of traffic
19 and transportation. We will reserve staff 20 and
20 P until tomorrow.

21 MR. FREITAS: Mr. Williams.

22 HEARING OFFICER WILLIAMS: Yes, sir.

23 MR. FREITAS: Did staff make a
24 recommendation to the response by applicant
25 regarding the routing of the trucks in the

1 conditions?

2 MR. KRAMER: Do you recall which
3 condition that was?

4 MR. FREITAS: I'm not sure which
5 condition it was. It was the topic around the
6 subject matter was dealing with who has authority
7 to issue or license the I-5 or 99 corridor.

8 MR. KRAMER: Well, we disagreed with
9 both of their proposals. And we give reasons. We
10 made a minor -- recommended a minor change to
11 Transportation-3, which probably wouldn't change
12 the substance from your point of view.

13 So I gather you're going to have to look
14 at the response when it's sent to you.

15 HEARING OFFICER WILLIAMS: Yeah, those
16 are contained in the documents that we're
17 reserving until you've had a chance to look at
18 them.

19 MR. FREITAS: Oh, okay, thank you, Mr.
20 Williams. I wasn't sure if that was still --

21 HEARING OFFICER WILLIAMS: Okay. No
22 problem. Okay, then, we are going to close out
23 the uncontested topics that we've just covered,
24 subject to the matters contained in staff's
25 exhibit 20 and P that we will take up tomorrow.

1 We will admit, again, if I haven't said
2 it, the relevant portions of the staff assessment
3 and supplement on the topic of traffic and
4 transportation.

5 Staff, did you have something?

6 MR. KRAMER: At some point I wanted to
7 introduce into the record the portion of the
8 addendum that's a response to agency and public
9 comments. I don't know if this is the appropriate
10 time. But, of course, it covers a multitude of
11 subject areas, but we want to make sure that's in
12 the record to support a finding that we've
13 responded to agencies, if nothing else.

14 HEARING OFFICER WILLIAMS: Right. Any
15 objection?

16 MR. HARRIS: No.

17 HEARING OFFICER WILLIAMS: Okay. Then
18 the public, agency response portions of the staff
19 assessment and supplement are admitted.

20 MR. KRAMER: Yeah, it's in the addendum
21 and it's 3-1 is the chapter.

22 HEARING OFFICER WILLIAMS: Okay. That
23 will be admitted, as well, without objection.

24 That takes us then to the contested
25 topics. And at this point we'll probably take a

1 lunch break after we've completed one of these
2 topics.

3 The first one on the list is waste
4 management. And second on the list is biological
5 resources. And then third on the list for today,
6 third and last is soil and water resources.

7 Now, we had had some discussions earlier
8 about soil and water resources and the
9 availability of staff's witness. Because the
10 parties had indicated that they had planned to
11 take this up tomorrow.

12 Staff?

13 MR. TRASK: I believe we can arrange for
14 a witness this afternoon. If we could perhaps get
15 some idea of Mr. Freitas' concerns on that I could
16 line up the -- we have two water witnesses, and
17 I'm not sure which one would be the most
18 appropriate for his questions.

19 HEARING OFFICER WILLIAMS: Well,
20 certainly the flood issue, I think, is definitely
21 paramount. So, it might be best, if you can
22 arrange it, to have them both here just in case he
23 has any questions.

24 So, it's now 11:30. Is that
25 progression, waste, biological resources and soils

1 and water, is that acceptable? Do we need to move
2 things around?

3 MR. HARRIS: That'll be fine for us. We
4 have one witness on waste that we may have to call
5 in, but I actually had a question about whether
6 Mr. Freitas still had questions on waste
7 management based on his filing the other day.

8 MR. TRASK: Right, same with staff.

9 HEARING OFFICER WILLIAMS: Mr. Freitas,
10 do you have questions on waste?

11 MR. FREITAS: Do you want to take that
12 topic first, or are you trying to determine which
13 topic to take first?

14 HEARING OFFICER WILLIAMS: Well, we have
15 it on the list as next. So, we're ready to move
16 into waste if it's something that you need to
17 cover. I don't know, there's been some talk that
18 perhaps you've had your questions answered in this
19 area.

20 MR. FREITAS: Yeah, it may be -- maybe
21 this might be an appropriate time to make an
22 opening statement on like the testimony of the
23 witness on this, as an intervenor?

24 HEARING OFFICER WILLIAMS: Why don't you
25 do that.

1 MR. FREITAS: Okay. Give me a moment
2 here, please.

3 (Pause.)

4 MR. FREITAS: I'm working between online
5 in one room and a computer in another room and a
6 phone in another, so if you'll bear with me for a
7 second, I'd appreciate it.

8 All right, I'd like to preface this
9 statement -- did you want to put me under oath or
10 anything, Mr. Williams?

11 HEARING OFFICER WILLIAMS: No, it's an
12 opening statement and it's not considered
13 evidence.

14 MR. FREITAS: Okay. I just want to
15 preface this statement I'm about to make by the
16 fact that I have not had time to completely review
17 staff's response to the February 4 addendums or
18 suggestions that were, or amendments that were
19 suggested by applicant, as I just received that
20 document yesterday, late afternoon.

21 So, I did a cursory of it and I just
22 want to be able to have, you know, time tonight to
23 review it again for tomorrow. And I may have some
24 additional input. But for right now I just want
25 to make this opening statement.

1 I wanted to thank the applicant and
2 staff and the Committee for allowing my late entry
3 application to participate in the process. And
4 I'm sure that many of you thought I was going to
5 cause an unnecessary delay and distraction.

6 I'm here today to testify in the record
7 to help with understanding my issues of concern
8 prior to the discovery process that I have just
9 undertaken in the last ten days or so. And I
10 apologize for not having been up to speed. It was
11 my understanding that by the public temperature
12 out there that the Calpine Company was going to
13 withdraw their application in the last year. So,
14 I've been just -- I assume made that assumption.
15 And I'm glad they haven't.

16 I'll start by saying that under the
17 representations that have been made both on the
18 record, included in my witness prehearing
19 testimony, and off the record, I have concluded
20 that this application to place a 1060 megawatt
21 power plant in Fresno County is a necessary
22 precursor to becoming a self sufficient energy
23 consumer.

24 By all accounts California is an energy
25 consumption giant compared to other users in the

1 national grid, and our dependency on imported
2 power keeps us at a commercial disadvantage and
3 creates elements that could lead to pricing
4 bondage during ever-increasing peak demand loads
5 and in the very near future of normal demand
6 loads.

7 For this reason and many more that I
8 have just discovered in the last few days, I am
9 making an endorsement on the record that the
10 applicant's license to operate the power plant be
11 approved.

12 Now, I want to qualify my statement
13 regarding this endorsement by stating that, as I
14 understand it, staff, Committee and the applicant
15 remain locked into a position that allows
16 influence and political differences in state
17 versus federal overlapping authorities that could
18 bog down the process, or have questions of
19 qualifiers regarding the values and reliability or
20 legality of the applicant's pollution credits.

21 Should this legal issue and debate
22 elicit any new information, which had I foreseen
23 or had been aware of, that would create doubt in
24 my mind about any parts of the applicant's entire
25 application, then I would reserve my right to

1 amend this endorsement.

2 That being said, the one remaining issue
3 of my concern is the exposure the plant and
4 construction site could have to a 25-, 50- or 100-
5 year storm event in the Yuba flood basin, and how
6 those events and that flooding could impact the
7 City of San Joaquin, its infrastructure and its
8 citizens.

9 This concern is not a specific concern
10 which is tied to the power plant, except only as
11 it relates to the potential impacts the flood
12 waters would have if they were to breach any
13 internal containment of the salt cake,
14 transformers, and/or any types of contaminant
15 which might contain chemicals that could be
16 leached out into these flood waters, which in turn
17 could then be leached out into the surrounding
18 area or community.

19 After careful consideration about
20 whether or not to raise this issue I have decided
21 that it is my duty as a responsible citizen who
22 has access to this knowledge to bring this matter
23 to the attention of the applicant and the
24 officials governing this process.

25 I do this not to create any new or

1 unknown eventualities for the planners to
2 consider, but so that I might help raise the
3 awareness of the potential for damage factor that
4 these flooding events can cause, as I have under-
5 estimated those levels, myself, and the impacts of
6 the destruction that I eye-witnessed and many
7 others eye-witnessed back in 1995 and 1998.

8 I decided that it was worth the risk of
9 being called a zealot and a trouble-maker if, in
10 the end, all that came from it was my own personal
11 peace of mind and the preservation of the public
12 interest.

13 In conclusion, the flooding element that
14 I have brought to the attention of the hearing is
15 an element that will exist with or without the
16 placement of this power plant. I have no doubt
17 whatsoever that the construction engineers will
18 have no problem with designing a facility that
19 will be capable of preventing such breaches of
20 containment of the salt cake, transformers or
21 contaminants, hence my complete endorsement of
22 this project.

23 I would also like to avail myself to any
24 questions or cross-examination by the applicant,
25 staff and the Committee regarding this testimony I

1 presented here today. I also would like to make
2 it known to any members of the community at large
3 that I am willing to discuss and explain in
4 layman's terms what my research and diligence have
5 confirmed in the past ten days about the impacts
6 to the Valley this project will have.

7 And that's my opening statement. And
8 basically most of the off-record conversations and
9 meetings that I've held with Calpine over the last
10 week or so, and my scientific mentor that I hired,
11 Mr. Beck, to basically explain some of the more
12 scientific terms that were being used, has given
13 me a new outlook on the project.

14 And I think the project's going to be a
15 beneficial project for the entire Valley.

16 HEARING OFFICER WILLIAMS: Well, thank
17 you very much, Mr. Freitas. We appreciate your
18 comments. I guess then what I'm hearing is that
19 perhaps we can take, as uncontested, the topics of
20 waste management and biological resources. And
21 then pick up with soils and water after lunch.

22 Is that understanding correct?

23 MR. FREITAS: Yes, that's correct.

24 HEARING OFFICER WILLIAMS: Okay, well,
25 then let's do that. We'll take waste management

1 and biological resources as uncontested topics.
2 Then we'll take a lunch break and resume on the
3 topic of soils and water resources.

4 Applicant.

5 MR. HARRIS: Waste management first?

6 HEARING OFFICER WILLIAMS: Yes.

7 MR. HARRIS: Thank you, Mr. Williams.

8 Our witness for waste management is Karen Parker.
9 Her prior filings are identified in section 1D; I
10 believe they've all been given numbers before.
11 Section 8.3 of the AFC is exhibit 3; appendix 8.13
12 of the AFC is exhibit 3. Data response set 1A is
13 exhibit 3A.1; data response set 1B is exhibit
14 3K.1; data response set 1E is previously
15 identified as 3K.3. And staff assessment
16 comments, set 1, previously identified as 3A.2.

17 I would move our waste management
18 testimony by declaration.

19 HEARING OFFICER WILLIAMS: That
20 testimony is admitted without objection.

21 Staff.

22 MR. KRAMER: We would move the waste
23 management section 4.13 of the staff assessment.
24 And exhibit 20, as in Oscar, beginning at page 25
25 through page 27. There are several responses to

1 proposed changes to waste management conditions.

2 We'd move both of those into evidence.

3 HEARING OFFICER WILLIAMS: Okay, the
4 Committee will admit without objection the
5 relevant portions of the staff assessment and
6 supplement on the topic of waste management. And
7 we'll reserve admitting staff exhibits 20 and P
8 until tomorrow.

9 Biological resources.

10 MR. HARRIS: Thank you, Mr. Williams.
11 The applicant's witness is EJ Koford. His prior
12 filings are again identified in section 1D of his
13 testimony. I believe they've all been given
14 numbers. Section 8.2 of the AFC is exhibit 3.
15 Data adequacy supplement to the AFC is exhibit
16 3.1. Data response set 1A is exhibit 3A.1. Data
17 response set 1B is exhibit 3K.1. Data response
18 set 1D is exhibit 3K.2. And staff assessment
19 comments, set 1, is exhibit 3A.2.

20 I would move our biological resources
21 testimony by declaration.

22 HEARING OFFICER WILLIAMS: That is
23 admitted, that testimony is admitted without
24 objection.

25 Staff.

1 MR. KRAMER: We would move section 4.2
2 of the staff assessment regarding biological
3 resources. And the portion of the staff
4 assessment addendum beginning at 2-1 regarding
5 biological resources, into evidence.

6 HEARING OFFICER WILLIAMS: Okay, the
7 relevant portions of the staff assessment and
8 supplement on the topic of biological resources
9 are admitted without objection.

10 Okay. With that I think we'll take a
11 lunch break and return at 1:00. And be prepared
12 to pick up on the topic of soils and water
13 resources.

14 Mr. Freitas?

15 MR. FREITAS: Yes.

16 HEARING OFFICER WILLIAMS: Okay, we're
17 going to take a lunch break until 1:00.

18 MR. FREITAS: Yeah, that sounds great.
19 I'll see you guys at 1:00.

20 HEARING OFFICER WILLIAMS: Okay. Thank
21 you.

22 MR. FREITAS: Thank you.

23 (Whereupon, at 11:45 a.m., the hearing
24 was adjourned, to reconvene at 1:00
25 p.m., at this same location.)

1 AFTERNOON SESSION

2 1:03 p.m.

3 HEARING OFFICER WILLIAMS: This is Major
4 Williams. Let the record reflect that all parties
5 who were here before the break are again present.
6 And we're ready to proceed to the topic of soil
7 and water resources. And we'll begin with the
8 applicant.

9 MR. HARRIS: We're going to have our
10 witness sworn, please. EJ Koford.
11 Whereupon,

12 EJ KOFORD
13 was called as a witness herein, and after first
14 having been duly sworn, was examined and testified
15 as follows:

16 DIRECT EXAMINATION

17 BY MR. HARRIS:

18 Q All right, Mr. Koford, I'm going to walk
19 you through the preliminary matters and then we're
20 going to make you available for cross-examination.
21 So, could you please state your name for the
22 record.

23 A My name is EJ Koford.

24 MR. KESSLER: Hello, this is John
25 Kessler.

1 MR. TRASK: Thanks, John, we'll get to
2 you in a second.

3 BY MR. HARRIS:

4 Q Can you state the subject matter of the
5 testimony you're here to sponsor today?

6 A I prepared the water supply and water
7 quality sections.

8 Q And were the documents that you
9 sponsored as part of your testimony previously
10 identified in section 1D of your prefiled
11 testimony?

12 A Yes, they were.

13 MR. HARRIS: Those documents in 1D are,
14 and I believe they've all been given numbers,
15 section 8.9 and -- excuse me, 8.14 of the AFC is
16 exhibit 3. Data adequacy supplement to the AFC is
17 exhibit 3.1. Data response to set 1A is 3A.1.
18 The data response set 1B is 3K.1. The data
19 response set 1C is 4B.1. Data response set 1D is
20 3K.2. The staff assessment comments, set 1, is
21 3A.2. And the engineering report for production,
22 distribution and use of reclaimed groundwater for
23 the San Joaquin Valley Energy Center is a new
24 document, 4B.2 -- excuse me, both the 4B.1 and
25 4B.2 are new documents; they're two new documents

1 for this section.

2 Is the record clear enough for you, Mr.
3 Williams? Do you want me to run through them one
4 more time?

5 HEARING OFFICER WILLIAMS: Well, just
6 let me say this. Since waste and bio are
7 uncontested, we're going to move those up and make
8 those 3P and Q. And then the first contested
9 topic will be exhibit 4 now, soils and water.

10 So, with that correction, we can
11 proceed.

12 MR. KOFORD: Soils and water becomes 4A?
13 Or 4?

14 HEARING OFFICER WILLIAMS: 4.

15 MR. HARRIS: Just 4, okay. So the
16 document identified is 4B.1 is actually just 4.1.

17 HEARING OFFICER WILLIAMS: 4.1.

18 MR. HARRIS: Which is the data response
19 set 1C. And the engineering report will be 4.2.
20 Sorry for that.

21 HEARING OFFICER WILLIAMS: That's okay,
22 you didn't know.

23 BY MR. HARRIS:

24 Q Mr. Koford, were these documents
25 prepared either by you or at your direction?

1 A Yes, they were.

2 Q Are the facts stated therein true to the
3 best of your knowledge?

4 A Yes, they are.

5 Q Are the opinions stated therein your
6 own?

7 A They are.

8 Q And you adopt this as your testimony for
9 the proceeding?

10 A I do.

11 Q Were your qualifications attached to
12 your prefiled testimony, as well?

13 A Yes, they were.

14 Q Thank you.

15 MR. HARRIS: We'd make the witness
16 available for cross-examination.

17 HEARING OFFICER WILLIAMS: Staff, do you
18 have any questions?

19 MR. KRAMER: Not at this moment.

20 HEARING OFFICER WILLIAMS: Okay. Mr.
21 Freitas.

22 MR. FREITAS: Yes.

23 HEARING OFFICER WILLIAMS: Okay, do you
24 have questions?

25 MR. FREITAS: Yes. First I need to

1 identify the witness' name. I didn't hardly hear
2 him.

3 MR. KOFORD: Keith, this is EJ Koford, E
4 and J like the alphabetic letters.

5 CROSS-EXAMINATION

6 BY MR. FREITAS:

7 Q Okay, EJ. In preparing -- did you do
8 the -- I think if I heard you correctly you stated
9 that you helped prepare the water quality issues,
10 or dealt with the water quality issue?

11 A That's correct.

12 Q Did you use any of the Porter-Cologne
13 Water Quality Control Act, or the Water Recycling
14 Act of 1991 or any of AB-3030 criteria in your
15 analysis, in your research?

16 A Yes.

17 Q All three of the above, or --

18 A As they pertain to this project,
19 probably the most significant one was Porter-
20 Cologne.

21 Q The Porter-Cologne, okay.

22 A The AB-3030 was relevant for developing
23 the water supply, but not a major reference in
24 this context.

25 Q Okay. So you're familiar under AB-3030

1 under groundwater management, the plans to
2 regulate migration of groundwater, of contaminated
3 water?

4 A I don't think I know what you're
5 referring to, no.

6 Q Okay. I believe there's a monitoring
7 condition, I think they identified that some of
8 the plans that they adopted pursuant to the '92
9 statute of AB-3030, more commonly known as AB-
10 3030, they had identification and protection of
11 wellhead recharge areas, regulation of the
12 migration of contaminated water, provisions for
13 abandonment and destruction of wells, mitigation
14 of over-draft, replenishment, monitoring,
15 facilitating conjunctive use, identification of
16 well construction policy and construction of
17 cleanup, recharge, recycling and extraction
18 projects by the local agencies?

19 A That sounds correct.

20 Q Okay. Under that, having said that did
21 you do any kind of comparative analysis for like
22 say for example a comparative analysis that would
23 build a desalinization plant and use deep water
24 wells from the west side that are in close
25 proximity to the proposed project, and bring those

1 salt waters into the plant and de-sal at the
2 plant?

3 A I did not.

4 Q Did you do any studies or research or
5 comparative research or analysis to determine if
6 Calpine or the applicant could make a proposal to
7 the City of Fresno or the Fresno ID, Irrigation
8 District, regarding the 60,000 acrefeet of water
9 that the ID purchases every year that's available
10 in the Friant user's contract to offset the cost
11 of the impacts of that contract and that
12 contracted water, which would, in essence, offset
13 the cost of metering in the City of Fresno? Did
14 you do any research at all under that?

15 HEARING OFFICER WILLIAMS: Mr. Freitas,
16 I'm going to ask you to break that question down a
17 little bit. It's kind of long, and --

18 MR. FREITAS: Okay, I will, I'm sorry.

19 BY MR. FREITAS:

20 Q There is a body of water that the
21 contractor, body of water of 60,000 acrefeet that
22 is purchased every year or supposed to be
23 purchased every year on the Friant contract, for
24 the Friant users of Fresno City, that eventually
25 flows into Fresno ID.

1 And the City of Fresno now is talking
2 about offsetting the cost of that contract for
3 that water by placing meters in the City.

4 And I'm just wondering if you had done
5 any research at all or did any comparative studies
6 or analysis as to how you could impact those costs
7 by taking that water?

8 HEARING OFFICER WILLIAMS: Do you
9 understand the question?

10 MR. KOFORD: I did not study the City of
11 Fresno water supply, no.

12 MR. FREITAS: Okay. Bear with me for a
13 second; I'm going to go over my notes here real
14 quick.

15 BY MR. FREITAS:

16 Q Did you come up with any final analysis
17 or justification for the rationale behind taking
18 the recycled or what we call the graywater or the
19 pumped out water from the mound at the sewer plant
20 in Fresno? Or do you have any personal
21 observations for the benefits or disadvantages of
22 that?

23 A Yes, we analyzed the benefits of using
24 the water mound under the City of Fresno
25 wastewater treatment plant.

1 Q What is your conclusion -- what
2 conclusion do you draw professionally?

3 A We determined that both the project and
4 City of Fresno would be benefitted by using that
5 water source over alternative water sources.

6 Q And the main reason being?

7 A It's within the City of Fresno's
8 interest to reuse recycled water wherever possible
9 to replace potable water supplies. It's in their
10 general plan to reuse that water. It's within the
11 ability of this plant to use water which is not
12 potable quality.

13 Q Did you do any alternative or backup
14 cooling water supply plans if there was an
15 inevitable failure or potential failure of that
16 system to be able to bring that nonpotable water
17 out to the site?

18 A We evaluated the potential for failure
19 and evaluated action if that water were not
20 available, yes.

21 Q And what conclusions did you come up
22 with?

23 A I think we rely on onsite storage to
24 bridge the gap if there were a failure of that
25 system for some reason.

1 Q And your source of offsite water, could
2 you just identify that source?

3 A We use reclaimed water from the City of
4 Fresno for cooling and process water.

5 Q You say that the backup would be onsite
6 site water?

7 A I said there would be onsite storage of
8 that water that we can operate on.

9 Q So you anticipate that you would be
10 storing the water onsite, or portions of the water
11 onsite -- portions of the 7000 acrefeet of water?

12 A That's correct.

13 Q And where would you be storing that
14 water at?

15 A It's shown in the project description as
16 like a half-million-gallon tank. Refer you to
17 figure 1.1-3 of the site plan in the original AFC.

18 Q What number is that, figure 1.1?

19 A 1.1-3.

20 Q Is that water that's stored in that
21 storage tank, is that treated, already treated
22 water that would be the same or equivalent to the
23 treated water that's actually used in the
24 flashing?

25 A It is treated water used at the plant.

1 I can't address your question about flashing.

2 Q Okay. I was just curious if there's any
3 difference between the chemical makeup or the
4 structure of that water versus the water that goes
5 directly into the plant from the pipeline.

6 A You could refer to the water balance
7 diagram which would show what other treatment
8 processes are involved in the particular stream
9 you're interested in. Frankly, I'm not following
10 your question completely clearly.

11 But if you'll look at figure 2.2-6A
12 through B, you may be able to see there whether
13 additional treatment is provided to that water
14 before it goes into the process you're interested
15 in.

16 Q In your study, when you did your study,
17 did you also include, to meet compliance with the
18 overall project, the continued monitoring and
19 measurement and monitoring of the water at the
20 origination site?

21 A The project complies with all state and
22 federal requirements for monitoring.

23 Q Could you just kind of put that in
24 layman terms, it qualifies? Are you saying Title
25 22, are you making reference to Title 22?

1 A A reclaimed water provider is
2 constrained by the requirements by the Regional
3 Water Quality Control Board and the Department of
4 Health Services under two different regulations.

5 The City of Fresno specifically has a
6 groundwater or reclaimed water plan which both the
7 Regional Board and DHS commented on. And they
8 include monitoring requirements on the quality and
9 treatment of that water, as well as meeting the
10 requirements of Title, I think it's 23.

11 Q And your study also made sure that the
12 project was not intended to take native
13 groundwater?

14 A That's correct.

15 Q Is it your understanding in your
16 experience in working with the project and your
17 research that you've done, have you done or are
18 you familiar with any other projects that are
19 similar with the taking of this type of recycled
20 water for the same purpose and use?

21 A Several power plants in California have
22 been licensed to use reclaimed water.

23 Q Are you actually personally experienced
24 with seeing the process being used?

25 A No. These are relatively new. I take

1 that back. I was involved in licensing one that
2 uses reclaimed water. I had forgot.

3 Q Which one is that?

4 A Carson Cogen.

5 Q I'm sorry, I didn't get that.

6 A Carson Cogeneration Facility, a 49.9
7 megawatt site here in Sacramento.

8 Q In your experience, and although be it
9 brief, was it upon its conclusion?

10 A Runs like a Toyota.

11 (Laughter.)

12 MR. KOFORD: Works great.

13 MR. FREITAS: I like that, that's a very
14 good analogy. It's like a sewing machine.

15 Okay, I appreciate your testimony, and
16 thank you for cooperating with me.

17 MR. KOFORD: Thank you for your help,
18 sir.

19 MR. FREITAS: You're welcome very much.

20 HEARING OFFICER WILLIAMS: Any redirect?

21 MR. HARRIS: No, thank you.

22 MR. FREITAS: Do we have any other
23 witnesses on this matter, on this issue or
24 subject?

25 HEARING OFFICER WILLIAMS: Yes. Staff

1 is going to present its witness now.

2 MR. KRAMER: Okay, John Kessler, are you
3 on the phone?

4 MR. KESSLER: Yes, sir.

5 MR. KRAMER: Okay, could you spell your
6 name for the court reporter, please.

7 MR. KESSLER: Yes, the last name is
8 K-e-s-s-l-e-r.

9 HEARING OFFICER WILLIAMS: We should
10 swear the witness.

11 MR. KRAMER: That's true, yes.
12 Whereupon,

13 JOHN KESSLER
14 was called as a witness herein, and after first
15 having been duly sworn, was examined and testified
16 as follows:

17 DIRECT EXAMINATION

18 BY MR. KRAMER:

19 Q Could you briefly describe your
20 qualifications as an expert in the soil and water
21 resources area?

22 A I'm serving as a consultant to the
23 California Energy Commission. I've evaluated the
24 soil and water resource issues of approximately
25 ten power plants for the Energy Commission over

1 the last year and a half.

2 I've been involved in other projects
3 with use of recycled water for cooling and process
4 purposes.

5 My background overall is 23 years
6 experience in the water and power generation
7 field, working at utility level, public agency and
8 water district. And more recently as an
9 independent consultant.

10 Q Thank you. Did you prepare the staff
11 assessment and staff assessment addendum sections
12 on soil and water resources?

13 A Yes.

14 Q And are the contents of those sections
15 and their conclusions and statements of fact true
16 and correct --

17 A Yes.

18 Q -- to the best of your knowledge?

19 A Yes.

20 Q Did you also prepare a response to the
21 applicant's proposed changes to some of the soil
22 and water conditions of approval?

23 A Yes.

24 Q And, again, does that represent your
25 best professional judgment?

1 A Yes.

2 MR. KRAMER: Okay, we would just leave
3 Mr. Kessler open to cross-examination.

4 HEARING OFFICER WILLIAMS: Okay. Mr.
5 Freitas.

6 MR. FREITAS: Yes. You know, I don't
7 know for sure if this is the right time to bring
8 this in or not, but I guess I can try it. And you
9 can always, I guess applicant or staff can correct
10 me or object, and kind of give me some guidance
11 here.

12 But would this be the point where I
13 bring in the impacts of flood waters, the
14 particular impacts of the flood waters?

15 HEARING OFFICER WILLIAMS: Yes.

16 MR. FREITAS: Okay.

17 CROSS-EXAMINATION

18 BY MR. FREITAS:

19 Q Can I get your name, again? I'm sorry,
20 witness, I didn't get your name.

21 A Yes, it's John Kessler.

22 Q Mr. Kessler, are you familiar or have
23 you had opportunity to review the videotape that I
24 provided to staff regarding the 1995 flooding that
25 took place in the Yuba drainage basin?

1 A No, I have not.

2 Q Are you familiar, have you been able to
3 review any of the documents that I submitted as
4 evidence to depict this flooding and to verify
5 that the flooding did, in fact, take place?

6 A I have reviewed one such document.

7 Q Could you identify which document that
8 is?

9 A Certainly.

10 HEARING OFFICER WILLIAMS: Have the
11 parties seen the videotape?

12 MR. TRASK: I've seen it.

13 MR. HARRIS: And I've seen it.

14 HEARING OFFICER WILLIAMS: Okay. Is
15 there objection to making it Mr. Freitas' first
16 exhibit, which would be 5?

17 MR. HARRIS: No objection from the
18 applicant.

19 MR. KRAMER: No.

20 HEARING OFFICER WILLIAMS: Okay, Mr.
21 Freitas, --

22 MR. FREITAS: Yes.

23 HEARING OFFICER WILLIAMS: -- we're
24 going to mark your videotape as exhibit 5, your
25 first exhibit.

1 MR. FREITAS: Okay, thank you.

2 HEARING OFFICER WILLIAMS: Has that been
3 docketed?

4 MR. TRASK: Yes.

5 HEARING OFFICER WILLIAMS: It has been
6 docketed, okay.

7 MR. KESSLER: Mr. Freitas, to answer
8 your question, the document that I have seen that
9 you so prepared is the prehearing conference
10 statement. I believe it's dated January 27, 2003.

11 BY MR. FREITAS:

12 Q Okay. Are you readily familiar with the
13 contaminants in the placement and storage
14 containment facilities being used onsite, the
15 proposed site?

16 A Yes.

17 Q And are you familiar with the type of
18 containment that's proposed to be used for each
19 different contaminant?

20 A Yes.

21 Q Could you just give me a real brief
22 explanation summary, just real brief, of what type
23 of containment the salt cake is in?

24 A In general, the liquid hazardous
25 materials or waste are stored within secondary

1 containment facilities. And anyplace where there
2 is drainage from those, those, as I understand it,
3 are to drain into an oil/water separator. And if
4 necessary, be treated, but eventually to go back
5 and be recycled into the cooling tower basin.

6 Specifically on the salt cake, I need to
7 scratch my head on that here for a minute. I
8 don't specifically recall how that will be stored,
9 and if it's in a similar manner as the other
10 materials that could be considered hazardous or
11 potentially hazardous.

12 Q Which materials are you familiar with
13 that would be considered potentially hazardous?

14 A Well, these are things like oils in the
15 chemical storage, oilfield equipment or chemicals
16 that are used as part of the process.

17 Q Are you familiar with the name of the
18 chemicals?

19 A I could provide you with several, but I
20 think the person who's most capable of giving you
21 that rundown would be Mr. Greenberg. That's
22 really his expertise.

23 Q Okay, that's fine. Let me just focus on
24 the potential impact, and let me ask you just a
25 question, as an expert experienced in your self,

1 is there a potential, let's say, let me draw a
2 wild example.

3 If water was to breach the wall of the
4 containment area and engulf it in seven feet of
5 flood water, is there a potential that any of
6 those contaminants or containment facilities could
7 lead to a breach out of the chemicals that they
8 contain?

9 A I want to make sure I understand the
10 scenario that you have painted for us. You're
11 saying -- help me understand the degree of flood
12 event that you're talking about. You're saying if
13 this property had seven feet of water standing on
14 it?

15 Q Well, let me give you a visual picture.

16 A Okay.

17 Q Let's say that I filled a -- let's say
18 that I put 14 cfs of water into an 80-mile ditch
19 that was 20 feet wide by 12 feet deep. And I
20 filled that ditch 80 miles long for three weeks
21 solid with water.

22 A Okay.

23 Q Would that -- if that body of water, if
24 that level of water was to -- or degree of water
25 was to slam up into the facility, or to intrude

1 and fill up around the facility, or flush past the
2 facility, is there an opportunity that those types
3 of water flows in that long of a period sustained
4 could impact the containment of those chemicals?

5 A Based on my review there isn't really
6 that potential. The site is gently sloping. In
7 general, the power plant is being raised in grade
8 roughly two feet above the surrounding natural
9 ground elevation. And that's also true for the
10 berm around the stormwater retention basin. That
11 retention basin is, I believe, proposed to be
12 roughly ten feet deep. And to have a berm where
13 that containment would be sound.

14 And the secondary containments around
15 all the chemical hazardous material storages, I
16 believe would be bound for any imaginable level of
17 flood that the project could be subjected to. And
18 that's based on reviewing the FEMA 100-year flood
19 plane map, and also looking at the applicant
20 satisfying the criteria, particularly the City of
21 San Joaquin's criteria for stormwater drainage and
22 retention.

23 Q But you haven't had the opportunity to
24 review my video yet, have you?

25 A No, but I've had some feedback,

1 secondhand, from others on that video. But I
2 directly have not reviewed your video.

3 Q Okay. I was just curious if you'd had
4 any feedback possibly from anybody who eye-
5 witnessed those events in '95, the flooding of the
6 City of Mendota and the City of Firebaugh?

7 A I do not have any feedback from any
8 eyewitnesses to that event.

9 Q Okay. All right. Is there a potential
10 that the applicant could, or the engineer could
11 design a facility, is it particularly feasible,
12 economically and physically feasible to design a
13 facility whereby those types of water flows could
14 be diverted away from the direct impact of any
15 contaminant onsite?

16 A Yes, and I believe they've done so
17 already.

18 Q Thank you very much.

19 A You're welcome.

20 MR. FREITAS: That's all my questions
21 for this witness.

22 HEARING OFFICER WILLIAMS: Staff, do you
23 have any redirect?

24 MR. KRAMER: No.

25 HEARING OFFICER WILLIAMS: Applicant, do

1 you have anything?

2 MR. HARRIS: No, thank you.

3 HEARING OFFICER WILLIAMS: Well, Mr.

4 Kessler, you're excused. Thank you very much.

5 MR. KESSLER: Okay, glad to help, thank

6 you.

7 MR. FREITAS: Thank you, Mr. Kessler.

8 HEARING OFFICER WILLIAMS: Is Mr.

9 Greenberg, will he be present tomorrow?

10 MR. TRASK: He can be available by

11 phone, yes.

12 HEARING OFFICER WILLIAMS: Okay. Then

13 we --

14 MR. FREITAS: Mr. Williams, I think I

15 have some remaining questions for Mr. Greenberg.

16 HEARING OFFICER WILLIAMS: Yeah, he's

17 going to be available by telephone tomorrow. He's

18 not here today. But we will make him available --

19 MR. TRASK: We could try to patch him in

20 now if you want to try to tackle that.

21 HEARING OFFICER WILLIAMS: Sure, if you

22 can -- let's go off the record. Let's take about

23 five minutes.

24 (Brief recess.)

25 HEARING OFFICER WILLIAMS: During the

1 break we've identified exhibit 5A, which is a
2 four-page -- it's actually more than four pages,
3 but --

4 MR. TRASK: Yeah, I'm not sure, Mr.
5 Williams, if we have what Mr. Freitas is referring
6 to. Keith, we actually got nine pages of a fax
7 this morning. It didn't have a cover sheet so
8 we're a -- it all has to do with either the
9 Gragnani Farms or drainage problems along the San
10 Luis Drain. So we assumed it came from you.

11 HEARING OFFICER WILLIAMS: Yeah, and on
12 page 3 is the 1991 cropping pattern that you
13 referred to, and the map. So I guess maybe you
14 just want the first -- yeah, I think you probably
15 want the first three -- well, they're back-to-
16 back, so it would be one, two, three, four, five,
17 six pages of this document.

18 The seventh page would be Representative
19 Dooley, Member of Congress, letter. Did you want
20 that in, too?

21 MR. FREITAS: Well, I wasn't going to
22 get that far today. I was just going to try to
23 submit these four pages, --

24 HEARING OFFICER WILLIAMS: Okay.

25 MR. FREITAS: -- the interoffice

1 memorandum and the map.

2 HEARING OFFICER WILLIAMS: Okay. We'll
3 mark those pages as 5A for identification.

4 Now, again, it's --

5 MR. FREITAS: Mr. Williams, the
6 interoffice memorandum has three pages attached to
7 it, and then it has the map, that's the fourth
8 page.

9 HEARING OFFICER WILLIAMS: Okay.

10 MR. KRAMER: The first page is a
11 duplicate of the second.

12 HEARING OFFICER WILLIAMS: Is that it?
13 Okay, I see. Okay, that's 5A for identification.
14 We got it.

15 MR. FREITAS: Okay.

16 HEARING OFFICER WILLIAMS: Okay, and we
17 have Mr. Greenberg on the line -- Dr. Greenberg is
18 on the line. So, we'll have staff present him and
19 then you can cross-examine him.

20 Staff.

21 MR. KRAMER: Dr. Greenberg, could you
22 state your full name and spell your last name for
23 the court reporter.

24 DR. GREENBERG: Alvin J. Greenberg,
25 spelled G-r-e-e-n-b-e-r-g.

1 MR. KRAMER: Thank you. Could you
2 describe briefly your qualifications as an expert
3 in -- I'm sorry, you have to be sworn.

4 HEARING OFFICER WILLIAMS: Yes.
5 Whereupon,

6 ALVIN J. GREENBERG
7 was called as a witness herein, and after first
8 having been duly sworn, was examined and testified
9 as follows:

10 DIRECT EXAMINATION

11 BY MR. KRAMER:

12 Q Dr. Greenberg, could you please describe
13 your -- since the question you're being asked we
14 believe crosses over several areas, describe your
15 expertise and your education relating to the
16 public health, the hazardous materials and the
17 waste management areas?

18 A I'd be happy to. I received my
19 doctorate from the University of California San
20 Francisco in 1976. I completed three years of
21 post-doctoral work in the Department of
22 Pharmacology and Toxicology.

23 I served for three and a half years as
24 Assistant Deputy Chief for Health with the
25 California Occupational Safety and Health

1 Administration whereby I was in charge of not only
2 regulating or developing new regulations affecting
3 workplace exposures to over 500 chemicals, but
4 also hazardous materials management, exposure to
5 workers during hazardous waste operations.

6 I also supervised the enforcement of
7 those regulations, supervising over 100 industrial
8 hygienists in the field.

9 I was then appointed by the Governor to
10 the CalOSHA Standards Board in January of 1983
11 where I served for a year and a half as a member
12 of that five-person board who had the sole
13 authority in the State of California to enact
14 workplace regulations.

15 Since then I have developed human health
16 risk assessments as an independent toxicologist,
17 consulting toxicologist for local government, the
18 U.S. military, for the USEPA, for CalEPA and for
19 private industry.

20 At over 50 hazardous waste sites I've
21 conducted hazardous waste and solid waste
22 management audits. Served on a number of
23 hazardous waste and hazardous materials and waste
24 management advisory committees. And have been a
25 consultant for the California Energy Commission in

1 these fields since 1993.

2 I've also served as an expert in air
3 quality and public health due to air emissions by
4 being a member of the Bay Area Air Quality
5 Management District Advisory Council for ten
6 years. And serving as a member of the Bay Area
7 Air Quality Management District Hearing Board in
8 serving as its chairman for six years.

9 Q Thank you.

10 MR. KRAMER: We'll offer you for cross-
11 examination by Mr. Freitas.

12 HEARING OFFICER WILLIAMS: Thank you,
13 staff. Mr. Freitas.

14 MR. FREITAS: Yes.

15 HEARING OFFICER WILLIAMS: Okay, he's
16 available.

17 MR. FREITAS: Okay, thank you.

18 CROSS-EXAMINATION

19 BY MR. FREITAS:

20 Q Boy, Mr. Greenberg, I think I have to go
21 back to school just to be able to recite your
22 r, sum, .

23 A That was the short version, sir, but
24 thank you.

25 Q I'll tell you what, that's impressive.

1 I think you can probably answer a lot of my
2 questions relatively quickly with your background
3 and experience.

4 Can you just explain to me in short,
5 brief layman terms what inorganic arsenics could
6 be encountered in the soil in San Joaquin?

7 A Yes, that's used frequently as an
8 insecticide and fungicide and rodenticide. It can
9 be found usually on the periphery of various
10 properties, such as fencelines, because the wood
11 could be treated or sprayed with inorganic
12 arsenic.

13 Q And in relationship to the disturbance
14 of the soils, that's the only reason that it
15 becomes an issue at all?

16 A Yes.

17 Q Otherwise nobody notices it if it's not
18 bothered? I mean if a tractor disks up the field,
19 or cultivates the field, do you have inorganic
20 arsenic flowing in the air?

21 A There could be depending on the levels
22 of inorganic arsenic in the soil.

23 Q How far do you think those particles
24 would migrate? Would they go with -- particles,
25 or they'd go up in the air and then fall back

1 down?

2 A It depends on the particle size.

3 Disking operations, for example, would generate
4 some large particles which would fall back to the
5 ground rather quickly in a very short distance.

6 Those are the dust particles that you would see.

7 Then it would also generate the smaller
8 dust particles which could then be entrained by
9 wind in the atmosphere, and they could be carried
10 great distances. And those would be the particles
11 that you cannot see.

12 Q If we can't see them how would we
13 measure and monitor them?

14 A There are various monitoring stations
15 located throughout the United States, and more so
16 in the State of California. These are monitors
17 that are equipped to measure the airborne
18 concentrations of particulate matter of 10 microns
19 or less. And also those that are 2.5 microns or
20 less.

21 They're located throughout the state.

22 Q Is there any monitors in the proximity
23 of the plant?

24 A If you define proximity as being a mile
25 or two away, I'm not aware of any.

1 Q But it could be -- that could be
2 determined with the matter of a phone call to the
3 right agency, right?

4 A Yes. In fact, one could go on the
5 website and you could see that there are not any
6 California Air Resources Board monitors within a
7 mile or two of the site.

8 I think the closest one might be Fresno,
9 which is several miles away, about what, 15.

10 Q So, are you suggesting, or do you think,
11 or are you suggesting that there be monitors at
12 that site?

13 A During construction activities, yes.
14 But I think that's getting into tomorrow's
15 testimony.

16 Q Okay, that's fine. Let me go back to
17 the questions that I had for the previous witness,
18 Mr. Kessler, regarding some of the contaminants
19 that are going to be at the site.

20 Have you had opportunity to review the
21 list of -- applicant's list of the contaminants
22 that have been identified that will be contained
23 at the site?

24 A I'm confused by your word contaminants.
25 Are you referring to hazardous materials,

1 chemicals which will be used at the site?

2 Q Well, I guess -- let's break it down
3 then. Let's break it down into categories,
4 subcategories. Let's say are you aware of any
5 contaminants that are necessarily going to be
6 brought offsite onto the site and stored there?

7 A Okay, we don't refer to those as
8 contaminants, --

9 Q Okay, --

10 A -- because a contaminant --

11 Q -- hazardous waste, hazardous materials.

12 A Right, hazardous materials. Yes,
13 absolutely. I did an assessment and wrote the
14 staff assessment on the hazardous materials which
15 are proposed for use by the applicant during both
16 the construction phase and the operations phase.

17 Q Can you give me just a list of -- is
18 there too many just to list in your testimony
19 today of what those would be, or the most
20 important ones that you would consider most
21 important or most hazardous?

22 A Well, why don't I refer you to the
23 attachment to my testimony which refers to, I
24 think it's attachment A, which refers to a table
25 from the AFC. Because there are a number of

1 hazardous materials that are necessarily used at
2 any power plant.

3 One, for example, is aqueous ammonia.
4 They have to use some form of ammonia for
5 selective catalytic reduction. What that does is
6 reduce the presence of the oxides of nitrogen in
7 the exhaust from the stack. And so that's an air
8 quality mandate.

9 And they originally proposed to use
10 anhydrous ammonia, and changed their mind after
11 discussions with the staff. And the applicant is
12 now proposing to use the safer alternative,
13 aqueous ammonia.

14 Q And the aqueous ammonia versus the
15 anhydrous ammonia, I participated in a winery
16 catastrophe about 25 years ago at Gallo Winery,
17 where an anhydrous ammonia tank was inadvertently
18 the cap was popped off of it. And I saw people
19 running and dropping before my eyes, because it
20 takes the oxygen out of the air from around it.

21 Does that anhydrous ammonia versus the
22 aqueous ammonia, does the aqueous have the same
23 capabilities, or does it work on the same chemical
24 structure of absorbing oxygen?

25 A Well, they're both ammonia. But aqueous

1 ammonia is far less concentrated, and has a much
2 lower vapor pressure than anhydrous ammonia.

3 Anhydrous ammonia is stored under
4 pressure. And it is a gas when it leaves a
5 storage vessel. So, in that particular case that
6 you described, you would have a very cold and
7 dense cloud of anhydrous ammonia moving along the
8 ground. And besides its toxic effects, it doesn't
9 combine with the oxygen, but what it does is it
10 displaces the air. And so you don't have enough
11 air to breathe. And then the ammonia, itself, is
12 very toxic.

13 You do not have that same situation with
14 aqueous ammonia. And the applicant conducted air
15 dispersion modeling. And I conducted independent
16 air dispersion modeling to demonstrate that the
17 aqueous ammonia does not do what the anhydrous
18 ammonia, as you've described in that case at
19 Gallo, could do.

20 So this is, by far, the much safer
21 alternative. And, indeed, I found that should
22 there be a leak, an accidental leak, of the
23 aqueous ammonia storage tank, there will be no
24 impacts beyond the fenceline.

25 HEARING OFFICER WILLIAMS: Mr. Freitas?

1 MR. FREITAS: Yes, I'm digesting that.

2 BY MR. FREITAS:

3 Q Would it be safe to say, Mr. Greenberg,
4 then considering your testimony on that and the
5 impacts of that, and the differences between those
6 two ammonias, would it be safe to say that -- and
7 we were discussing this -- I need to kind of bring
8 it back around here -- we were discussing this
9 earlier. The main nemesis of my discussion here,
10 and the reasons for my concern is about a flood, a
11 potential 25-, 50-, or 100-year flood event that
12 could intrude into the containment areas that are
13 holding these hazardous materials.

14 My concern was if those water flows were
15 abundant enough and long enough, sustained long
16 enough flows that they could breach those
17 containments, and then those chemicals or
18 hazardous materials would be then leached out into
19 that water. Then that water would then leach out
20 into the surrounding area.

21 A Well, let me address that particular
22 scenario then. First of all, you have the
23 containment vessel, itself. And for aqueous
24 ammonia, what you have is a very high integrity,
25 stainless steel tank.

1 The California Energy Commission has not
2 recorded a single loss of an aqueous ammonia
3 containment vessel at a natural gas fired power
4 plant, period.

5 So what I'm trying to say is that there
6 have not been any breaches in the CEC's history of
7 certifying natural gas fired power plants. You
8 know, any breaches of these high in strength and
9 high integrity stainless steel containment
10 vessels. They're built to very strict and rigid
11 standards.

12 Second of all, should there be a breach,
13 there is the above-ground containment facility
14 that will capture the aqueous ammonia and funnel
15 that to a subsurface area that will then contain
16 that, as well.

17 The containment around the aqueous
18 ammonia tank can also serve as a buffer against
19 intrusion from an outside force. In other words,
20 if it's built to the engineering specification of
21 being able to contain a caustic material such as
22 aqueous ammonia, and the volume of the tank, plus
23 the 24-hour rainfall from a maximum 25-year
24 rainfall, then it certainly can withstand the
25 brunt of flooding from outside, as well.

1 It has been my experience and that of
2 Rick Tyler, who also sponsors this particular
3 testimony, and Rick is a professional engineer,
4 that these containment vessels and the secondary
5 containment, the berms, the concrete berms that go
6 around it, are engineered to withstand many times
7 the force of what could occur from inside or
8 outside, or during a seismic event, as well.

9 So, I would have to say that the risk of
10 a flood damaging the secondary containment, and
11 then damaging the primary tank, itself, the
12 primary containment, would be an insignificant
13 risk of occurring.

14 Q Excellent. Excellent response. So the
15 answer is no, a 25-, 50-, or 100-year flood event
16 would not breach those containment vessels?

17 A In my view, no. And keep in mind,
18 again, even an earthquake isn't going to breach
19 these. And we do have experience from earthquakes
20 in Northridge, Loma Prieta, Kobe, Japan, and just
21 a year or so ago, in Nisqually, State of
22 Washington. Similar primary and secondary
23 containments, and they were not breached.

24 Q And I respect your analogy there, using
25 those references. And I can see, too, in my life

1 when I witnessed the (inaudible) Creek flood and
2 watched a 65-foot wide by 100-foot long bridge
3 collapse into the ground, to disappear with seven
4 vehicles, never to be seen or found again.

5 A I can understand your concern about
6 that. But keep in mind, also, that those bridges
7 were built to lesser standards, and they are in
8 the middle of a river, or their abutments are on
9 the side of the river.

10 Q Yes, you're absolutely right. So, I
11 just wanted to make sure that if we're placing a
12 facility in the potential for flooding, those
13 types of impacts of flooding, in a basin, the Yuba
14 drainage basin that's already -- and I can read
15 you, you know, excerpts from a document that I
16 submitted as 5A, I think it's an example, 5A.

17 And I could just read you maybe one or
18 two lines from page 3 of that document. And if I
19 may --

20 A Please do.

21 Q It says that -- and I'm going to
22 paraphrase some of it just for convenience here --
23 the meeting did not go extremely well, as all the
24 options provide a limited capacity to carry
25 surface drainage, and do not alleviate the flood

1 potential.

2 To my surprise all attendees at the
3 meeting did not know about the process or who was
4 going to be working out part of the proposals. I
5 explained that the process would be the best tool
6 to develop and the staff's alternative to
7 determine what was available, acceptable,
8 affordable and possible.

9 For some reason, neither James
10 Irrigation District nor Tranquility Irrigation
11 District have been contacted regarding the
12 proposal. Yet the Gragnanis admitted that the
13 flows that they could not handle in the wetlands,
14 which is different than Westlands, it's wetland,
15 would flow to the Fresno Slough and impact those
16 two irrigation districts.

17 So, what I think the statement is
18 saying, and I'll just synopse it for you, what
19 it's saying is that we have an official from the
20 Bureau of Reclamation, Bill Luce, he's from the
21 solicitor's office of the Bureau of Reclamation.
22 And we all attended this meeting at Five Points at
23 a Westlands Water District facility.

24 And we were discussing the flooding
25 problem that we had from 1995. And it was

1 determined that if the federal and state
2 governments refused to allow the farmers to divert
3 the water flows from these floods coming from this
4 Yuba drainage basin into the San Luis drain, that
5 that disallowance of that diversion of that water
6 could create a flooding event in the James and
7 Tranquility Irrigation Districts. That would
8 impact those districts.

9 And, you know, San Joaquin sits in the
10 heart of James Irrigation District. And it's at a
11 low point in the Valley in proximity to the --
12 it's within a mile and a half proximity to the
13 site of the wetlands that could be flooding.

14 So I just wanted to, you know, I had a
15 concern that should those stormwaters ever get
16 that big or huge, you know, I think that maybe
17 it's never going to happen, and probably maybe I'm
18 kind of maybe over-dosing on it, but I really
19 appreciate you taking the opportunity, I mean I
20 really appreciate getting the opportunity to get
21 your input on it.

22 A Well, thank you. Please keep in mind
23 that even if the surrounding fields flood, we're
24 still not talking about flooding this particular
25 facility, nor are we talking about the force of a

1 flood, the force of a flooded river being in the
2 middle of that river.

3 And you're not in the middle of a
4 channel. And even if you were, the particular
5 gradient in that area is such that you're not
6 going to have a lot of force of moving water.

7 Q Well, that's the problem, Mr. Greenberg.
8 That site is in the middle of a channel. And it's
9 a body of water that becomes considered a channel,
10 Yuba, it's called Yuba Street, it's identified as
11 Yuba Street in the Yuba flood basin, the Colusa
12 and Yuba Streets become channels during times of
13 25-, 50-, and 100-year floods.

14 And if you look on your map you can
15 identify that the Yuba Street actually goes almost
16 right through the middle of the site.

17 The road doesn't go through the site; it
18 stops about a half a mile from the site, but
19 that's where the water would flow in a creek-like
20 direction. I never believed it possible until I
21 saw it with my own eyes.

22 A Well, once again, I'm referring to a
23 main channel of a river with considerable gradient
24 to generate the type of force of a flooded river
25 in order to do the things that you're concerned

1 about, such as wiping out bridge abutments.

2 If you look at some of the floods that
3 have occurred in California, that have gone
4 through urban and suburban areas, they have not
5 wiped out industrial facilities.

6 Q Right, they don't undermine the facility
7 and then subject it to being breached.

8 A So, you know, the statement, I mean my
9 position is that the risks are insignificant.

10 Q Okay, great. Can we talk about one more
11 contaminant? There was one more that was listed
12 on staff's response, along with the ammonia. Are
13 you familiar with the other -- excuse me, not
14 contaminant, excuse me, I strike that. I meant
15 hazardous material.

16 A Sure, which one are you interested in?

17 MR. FREITAS: Well, it's the other one
18 that was listed with the ammonia. Maybe staff can
19 help me out, or Mr. Matthew or Matt Trask or Mr.
20 Kramer can help me out?

21 MR. TRASK: Mr. Freitas, you're talking
22 about in staff's, what I mailed you this
23 afternoon, emailed you this afternoon?

24 MR. FREITAS: Well, I got it mailed to
25 me on the 13th or 14th I received it just last

1 night, or 16th, yesterday.

2 MR. TRASK: It's probably hydrogen.

3 MR. FREITAS: Yeah, hydrogen. There you
4 go.

5 MR. TRASK: Okay.

6 BY MR. FREITAS:

7 Q Could you explain what the hydrogen role
8 is?

9 A That's used to cool the generator coils.

10 Q And so that's a contained hydrogen gas?

11 A Yes, it is.

12 Q And how is that hydrogen gas, how is it
13 brought into the site?

14 A This would be trucked in on cylinders.
15 The cylinders, oh, let's see, the ones that I've
16 seen are about 10 or 12 feet long. They go on a
17 carriage. And they're stored very carefully in
18 precise locations away from flammable materials.

19 Q Do you know how big a bank of cylinders
20 at any one time would be stored on the site?

21 A You know, the AFC listed the cubic feet
22 of the gas and the number of cylinders escapes me
23 right now. But the applicant should be sitting
24 right there, and I think they could probably
25 answer that question.

1 MR. TRASK: According to the AFC it says
2 1320 pounds will be the maximum quantity onsite.

3 BY MR. FREITAS:

4 Q Mr. Greenberg, is the use of the
5 hydrogen gas, is it similar to what one would look
6 at in the same closed loop system that's used for
7 like a, for example, make it real real simple,
8 simplistic analogy would be an icebox for a travel
9 trailer?

10 A Well, I'm not familiar with your ice box
11 for a travel trailer, but it is definitely a
12 closed loop system, and it's very, again, very
13 highly regulated. We do note that they have
14 hydrogen gas. It is something that is used at any
15 number of power plants. And it's routinely
16 handled very safely.

17 Q And there's no chance of any kind of
18 arcing, or there's no arcing systems at all that
19 go in a power plant, internal arcing?

20 A Well, you talk about no chance. The way
21 I look at it is that, once again, we have not had
22 any problem in CEC-certified natural gas fired
23 power plants using hydrogen gas.

24 And we've studied it, and we make sure
25 that they store it in the proper location. They

1 have to follow all the NFPA, that's National Fire
2 Protection Association, recommended codes, uniform
3 fire code of the State of California, et cetera.

4 I mean the uniform fire code, and then
5 the California fire code, which references the
6 uniform fire code.

7 It's not so much that they're using
8 hydrogen gas. It's that they're using it in a
9 very safe manner. Hydrogen gas probably gets a
10 bad name from the Hindenberg Disaster, which
11 interestingly enough probably was not caused by
12 hydrogen gas exploding. But rather by something
13 else, some fabric on that blimp or dirigible,
14 whatever they call it, catching fire. And then
15 the hydrogen gas actually then burning, as opposed
16 to exploding.

17 Hydrogen gas can be handled very safely.
18 And we just make sure that they follow all the
19 codes and all the statutes, and that they keep it
20 stored away from flammables, or keep flammables
21 away from where the hydrogen gas is stored.

22 So, yes, it is my opinion in my
23 testimony that the storage and the use of hydrogen
24 gas at this proposed power plant poses a
25 negligible risk of fire, explosion or offsite

1 consequences.

2 Q Even if it was to be engulfed, if the
3 tanks were to be totally engulfed in flame, they
4 still wouldn't explode?

5 A Well, even if they were to explode, I
6 have conducted blast effects analysis at another
7 facility for the California Energy Commission back
8 in 1994. This was for a proposed power plant by
9 San Diego Gas and Electric. And given the
10 distances to the town, I don't think a blast there
11 would even knock out some windows. They have to
12 be even close. We're not talking about a lot of
13 hydrogen here.

14 Q Great.

15 MR. FREITAS: I'm running over my time
16 allotment, I think, Mr. Greenberg. So I'm going
17 to just say thank you very much.

18 DR. GREENBERG: You're welcome.

19 MR. FREITAS: I think you've helped me
20 out considerably. I appreciate it.

21 HEARING OFFICER WILLIAMS: Applicant, do
22 you have any questions?

23 MR. HARRIS: For Dr. Greenberg? No.

24 Thank you.

25 HEARING OFFICER WILLIAMS: Okay,

1 anything further, staff?

2 MR. KRAMER: No.

3 HEARING OFFICER WILLIAMS: Okay. Dr.

4 Greenberg, thank you very much. We're going to

5 excuse you.

6 DR. GREENBERG: Thank you, Mr. Williams.

7 HEARING OFFICER WILLIAMS: We appreciate

8 your taking the time out to call us and answer

9 those questions.

10 DR. GREENBERG: You're quite welcome.

11 I'll see you tomorrow morning at 10:00 a.m.

12 HEARING OFFICER WILLIAMS: Okay, thank

13 you.

14 DR. GREENBERG: Bye-bye.

15 HEARING OFFICER WILLIAMS: Bye. We had

16 talked a little bit at the hearing in San Joaquin

17 about possibly filing some papers on air quality

18 in an attempt to narrow those issues.

19 Did that occur? Did the parties have an

20 opportunity to discuss or address the legal and

21 factual issues --

22 MR. HARRIS: Can I ask a question about

23 what 5A is before we go on, before we leave that

24 subject? I just had a chance to read this from

25 Keith.

1 HEARING OFFICER WILLIAMS: 5A is -- you
2 have the document. It's for identification. We
3 haven't admitted it yet. It's the map is actually
4 the fourth page.

5 MR. HARRIS: Right.

6 HEARING OFFICER WILLIAMS: And there's a
7 duplicate, I guess, this cover page is actually a
8 duplicate of the inside page.

9 MR. HARRIS: Right.

10 HEARING OFFICER WILLIAMS: Do you want
11 Mr. Freitas to tell you precisely why he's
12 offering it or --

13 MR. HARRIS: I just -- well, I don't
14 know.

15 MR. KRAMER: What about the rest of it?
16 I mean, is this all going to be one package, or
17 should it be broken into discrete documents?
18 That's what I was --

19 HEARING OFFICER WILLIAMS: Well, just up
20 to the map, well, actually just up to the map is
21 5A for identification. Which is four pages.

22 Now, on the back of the map is a letter
23 that's not part of the exhibit. And I guess he's
24 still trying to -- I split mine off at the March
25 15th letter to Mr. Dooley from the Honorable

1 Calvin Dooley -- I guess to Mr. Patterson. Which
2 is on the back of the map. So that's not part of
3 the exhibit.

4 The exhibit is, again, the first three
5 pages and the map.

6 MR. HARRIS: Just a point of
7 clarification. Keith, can you hear me all right?

8 MR. FREITAS: Yeah, yeah, go ahead,
9 Mike.

10 MR. HARRIS: It's Jeff, actually.

11 MR. FREITAS: Jeff. Sorry, Jeff.

12 MR. HARRIS: The map you have shows the
13 City of Helm, is that right? First I thought this
14 was the City of San Joaquin. The one that says
15 1991 cropping pattern.

16 MR. FREITAS: Yeah, that should be the
17 only map in this group of papers.

18 MR. HARRIS: Okay, and just to be clear,
19 that starts out the City of Helm, and the project
20 site is in the upper left-hand portion of the
21 paper?

22 MR. FREITAS: That's right, that's
23 correct.

24 MR. HARRIS: Okay, I'm not exactly sure
25 about the location of the site, but I just wanted

1 to make sure that you meant this to be City of
2 Helm, because this is not the cropping pattern for
3 the project site.

4 MR. FREITAS: No, but it's the -- no,
5 no, no, no, I didn't mean it that way. But it is,
6 it shows the proximity of the wetlands and the
7 flooding to the site.

8 MR. HARRIS: Okay, that's all. I just
9 wanted that clarification.

10 HEARING OFFICER WILLIAMS: Any
11 objection? Okay, then we'll admit it as 5A.

12 MR. FREITAS: It's -- I'm sorry, go
13 ahead.

14 HEARING OFFICER WILLIAMS: And the last
15 page will be the map.

16 MR. FREITAS: Just for clarification
17 purposes, Mr. Williams, I think that it would be
18 easy to identify the project site on that map
19 because the sections are numbered.

20 HEARING OFFICER WILLIAMS: Right. Okay.
21 Well, it's in.

22 Now, were the parties able to discuss at
23 all the resolution or the legal questions
24 narrowing of the issues or what-have-you?

25 MR. KRAMER: As I alluded to in my

1 revised witness list, the EPA is reviewing and I
2 don't have a final answer from them, even as of
3 now. I may have a voicemail at 2:00. So things
4 are morphing in the background. It's hard for us
5 to land on a spot when the people who are feeding
6 us are -- some of our concerns are up in the air.

7 HEARING OFFICER WILLIAMS: Okay.

8 MR. KRAMER: But I think we see three
9 issues. At least potentially. One is the pre-90
10 ERCs. And that's EPA-driven, for the most part.

11 Second is what we call double-counting,
12 the credit that's appearing both in Pastoria and
13 in this case.

14 Third is the SO2 offsets. I think the
15 SO2 was left out of the hearing order, but I
16 assumed that was inadvertent, because it was one
17 of the three we listed in our prehearing
18 conference statement.

19 If the EPA takes that off the table, and
20 that's a possibility, then the two remaining
21 issues I don't believe will take all that much
22 time to discuss.

23 HEARING OFFICER WILLIAMS: Okay.

24 MR. KRAMER: SO2 maybe a little bit
25 more, but -- okay, we may have -- Matt reminded me

1 there may be another issue with the District's
2 rules. It relates to the pre-90 credits and
3 whether these are a shutdown of a major source or
4 not. And how that figures in the District's
5 rules.

6 But I don't think this -- I don't know
7 that we're going to have a time problem tomorrow
8 if air quality is the only item on the table.

9 MR. HARRIS: Air quality and visual
10 tomorrow.

11 MR. KRAMER: Yeah, and we need to talk
12 with the applicant, because we were trading ideas
13 in the last week while I was out of state,
14 monitoring the email. And I haven't heard the
15 final word from them to know if we still have an
16 issue there or not.

17 MR. HARRIS: On visual?

18 MR. KRAMER: Yes.

19 MR. HARRIS: We have a couple --

20 MR. ARGENTINE: Visual I think we still
21 do have some issues, but --

22 MR. KRAMER: Is it narrowed at least?

23 MR. HARRIS: They're very narrow. I
24 think we're down to VIS-2, the specifics of the
25 landscaping plan. And I've talked to Dr.

1 Priestley, our witness, and previewing the -- he
2 thinks there's still some disagreement there.
3 Although the difference is narrowed quite a bit.

4 And then VIS-7 there's still issues
5 related to whether that condition ought to be in
6 there, related to the plume issue.

7 So basically the landscape plan and the
8 plume issue are the two kind of outstanding visual
9 issues, if you will.

10 MR. KRAMER: Okay, so I think we did
11 narrow it somewhat is the answer to his question
12 then, I suppose.

13 MR. HARRIS: Yeah, we did substantially.
14 The areas of disagreement are pretty small to
15 begin with. And we've made some progress. And I
16 don't think it's going to take forever at all to
17 present our testimony.

18 HEARING OFFICER WILLIAMS: Okay, let's
19 go off the record.

20 (Off the record.)

21 HEARING OFFICER WILLIAMS: Just to
22 summarize, we're going to pick up in San Joaquin
23 tomorrow at 10:00 a.m. to take up the air quality
24 matter, and the public health matter. And then
25 we'll proceed to visual and plumes.

1 We will take up the housekeeping matters
2 of the exhibits and formally close out the matters
3 that we've discussed today at some point tomorrow.

4 And I'd like to thank the parties for
5 cooperating.

6 MR. HARRIS: Do we have anything left
7 open from today? Any issues?

8 HEARING OFFICER WILLIAMS: Well, we --
9 everything is closed subject to staff's 20 and P
10 that we need to allow Mr. Freitas an opportunity
11 to review.

12 MR. HARRIS: I need to be able to
13 release my witnesses on the subjects.

14 HEARING OFFICER WILLIAMS: Yeah, I think
15 you can do that.

16 MR. KRAMER: Let's see, did we formally
17 introduce our bio -- well, we certainly identified
18 them. I don't know if we offered them into
19 evidence, our bio --

20 HEARING OFFICER WILLIAMS: Yeah, well,
21 there's a note on the exhibit list that the
22 testimony includes the bios.

23 MR. KRAMER: No, no, I mean the biology,
24 staff assessment and the --

25 MR. TRASK: Yes, we did.

1 MR. KRAMER: We did? Okay.

2 HEARING OFFICER WILLIAMS: Yes.

3 MR. FREITAS: Mr. Williams, are we going
4 to do the exhibit housekeeping before the hearing
5 tomorrow or middle or after?

6 HEARING OFFICER WILLIAMS: We'll
7 probably do it after we complete air quality and
8 public health. We've also got public comment
9 tomorrow, and I expect that there'll be a few
10 folks offering public comment. So we'll take it
11 up.

12 My preference would be to move right
13 into air quality and get that completed. And then
14 take up the housekeeping matters. I don't expect
15 that they'll take much time.

16 You just need to review those documents
17 and we need to review your exhibits. And then
18 we'll formally close out the areas that we've
19 talked about today.

20 And then it shouldn't take long. Okay?

21 MR. FREITAS: Yeah, whatever you say,
22 sir. You're the boss.

23 (Laughter.)

24 HEARING OFFICER WILLIAMS: In all due
25 respect to Commissioner Geesman.

1 (Laughter.)

2 HEARING OFFICER WILLIAMS: Okay, so --

3 MR. FREITAS: Yeah, of course.

4 HEARING OFFICER WILLIAMS: -- so we'll

5 adjourn for the day.

6 Thank you.

7 (Whereupon, at 2:30 p.m., the hearing
8 was adjourned, to reconvene at 10:00
9 a.m., Wednesday, February 19, 2003, at
10 San Joaquin, California.)

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CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of February, 2003.

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